



City of NORFOLK

C: Dir., Department of Development

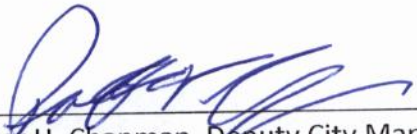
To the Honorable Council
City of Norfolk, Virginia

June 28, 2016

From: Charles E. Rigney, Sr., Director of
Development

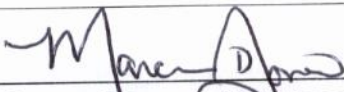
Subject: An ordinance authorizing the
conveyance of real property located at
6000 Northampton Boulevard in the
City of Norfolk

Reviewed:


Peter H. Chapman, Deputy City Manager

Ward/Superward: 4/7

Approved:


Marcus D. Jones, City Manager

Item Number:

PH-13

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** SF Cary Holding LLC

III. **Description:**

This agenda item is an ordinance authorizing the conveyance of real property located at 6000 Northampton Blvd in the City of Norfolk (the "City") in accordance with the terms and conditions of the agreement of sale.

IV. **Analysis**

The City is the owner of approximately 18.78 acres of land located at 6000 Northampton Boulevard (the "property"). SF Cary Holding LLC ("SF Cary") desires to purchase the property for development of a retail establishment.

V. **Financial Impact**

- The City has agreed to a purchase price of \$6,000,000 for the sale of the property.
- The sale of this property would place it back on the tax rolls and provide a world class shopping destination.
- The project is estimated to be a \$75 million investment and will generate at least \$2.5 million in direct city tax revenues.
- The project would create approximately 250 full time jobs and nearly 500 construction jobs.

VI. Environmental

N/A

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Economic Development Authority, the Department of Development and the City Attorney's Office.

Supporting Material from the Department of Development:

- Ordinance
- Agreement of Sale
- Exhibits

6/9/2016mr

Form and Correctness Approved:

By

Office of the City Attorney

Contents Approved:

By

DEPT. Development

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF
REAL PROPERTY LOCATED AT 6000 NORTHAMPTON
BOULEVARD IN THE CITY OF NORFOLK IN ACCORDANCE
WITH THE TERMS AND CONDITIONS OF THE AGREEMENT
OF SALE.

- - -

WHEREAS, the City of Norfolk is the owner in fee simple
of a parcel of land located at the intersection of Interstate 64
and Northampton Boulevard and with an address of 6000 Northampton
Boulevard, in the City of Norfolk, also known as City of Norfolk
GPIN1458563545 (the "Property");

WHEREAS, the buyer desires to purchase and to develop the
Property upon the terms and conditions set forth in the Agreement
of Sale attached hereto as Exhibit A;

WHEREAS, in order to allow for closing under the Agreement of
Sale and for the development of the Property, it is the desire and
intention of the City Council to accept certain easements for
utilities, drainage and access and to enter into maintenance and
other agreements as contemplated in the Agreement of Sale and as
required by the City's administrative departments as part of the
site development plan review and approval process; now therefore

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the conveyance by the City of Norfolk of property located at 6000 Northampton Boulevard in the City of Norfolk, as more particularly described in the Agreement of Sale attached hereto as Exhibit A, for the sum of \$6,000,000.00 and upon the terms and conditions set forth in the Agreement of Sale is hereby authorized and approved.

Section 2:- The City Manager is authorized to correct, amend, or revise the Agreement of Sale as he may deem necessary in order to carry out the intent of the Council and to execute the Agreement of Sale, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 3:- That that City Manager and other proper officers of the City are hereby authorized to deliver a deed to the buyer for the Property, in form satisfactory to the City Attorney, and to accept any easements for utilities, drainage, and access and to enter into any maintenance or other agreements contemplated by the Agreement of Sale or as required by the City's administrative departments as part of the City's site development plan review and approval process, each in form satisfactory to the City Attorney, and to do all things necessary and proper to effect the conveyance of the Property by the City.

Section 4:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

AGREEMENT OF SALE
BETWEEN
CITY OF NORFOLK
(AS SELLER)
AND
IKEA PROPERTY, INC.
(AS BUYER)

Dated: _____, 2016

Property: 18.78 +/- acres of land total, of which approximately
16.00 +/- acres are usable, located at the intersection of
Interstate 64 and Northampton Boulevard and known as
6000 Northampton Boulevard in the City of Norfolk,
Commonwealth of Virginia

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AGREEMENT OF SALE

THIS AGREEMENT OF SALE (the "Agreement") is made as of _____, 2016, by and between the CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia ("Seller"), and IKEA PROPERTY, INC., a Delaware corporation ("Buyer").

Background

A. Seller is the owner in fee simple of approximately 18.78 +/- gross acres of land, of which approximately 16.00 +/- acres are usable (the "Usable Acreage"), located at the intersection of Interstate 64 and Northampton Boulevard and known as 6000 Northampton Boulevard, in the City of Norfolk (the "City"), Commonwealth of Virginia, also known as City of Norfolk GPIN1458563545 (the "Sale Parcel"), including all of Seller's rights, titles and interests, if any, in and to: any strips, gores, easements, licenses, rights of way, ditches, privileges or other rights or appurtenances; any and all strips or gores of land abutting such Sale Parcel and lying between such Sale Parcel and any street, road, highway, avenue, or alley, including any after-acquired title or reversion in and to the same; adjacent streets, as depicted on the site drawing attached hereto as **Exhibit A** and made a part hereof (the "Parcel Plan"), but excluding the area around Lake Wright which is 25 feet from the top of the bank (the "Lake Buffer Parcel"), title to which the City shall retain.

B. Buyer desires to purchase the Sale Parcel from Seller together with all "Appurtenances," "Development Rights," and "Contract Rights."

(1) Appurtenances. The term "Appurtenances" means, with respect to all or any portion of the Sale Parcel, all of Seller's rights, titles and interests in and to: any strips, gores, easements, licenses, rights of way, ditches, privileges or other rights or appurtenances; any and all strips or gores of land abutting the Sale Parcel or lying between the Sale Parcel and any adjoining property or any street, road, highway, avenue, or alley, including any after-acquired title or reversion in and to the same; adjacent streets, roads, alleys, or rights-of-way, open or proposed, public ways; all oil, gas, coal, and other minerals on or under the Sale Parcel; and any reversionary rights attributable or appurtenant to the Sale Parcel.

(2) Condemnation Awards. The term "Condemnation Awards" means, with respect to all or any portion of the Sale Parcel, all of Seller's rights, titles, and interests in and to any award with respect to with respect to an event pursuant to which all or any portion of the Property is condemned or taken by eminent domain proceedings by any public authority or if a written notice of any such prospective condemnation or taking is given by any public authority ("Condemnation") that is effective after the "Effective Date" (defined in Section 2.1.1), for (a) any taking by condemnation or eminent domain proceedings of all or any portion of the Sale Parcel, or (b) any damage to all or any portion of the Sale Parcel by reason of a change of grade of any street, avenue, road, highway, or alley.

(3) Development Rights. The term "Development Rights" means, with respect to all or any portion of the Sale Parcel, all of Seller's rights, titles, and interests in and to: any and all applications, permits, approvals and licenses, letters of credit, deposits and other fiscal security; any and all rights to utilities (including service commitments, capacity, rights, allocations, taps and

connections, capital improvement contracts, utility construction agreements with municipal or other public utilities, regional detention rights, retention rights, and rights to discounts, refunds or reimbursements); rights under any traffic phasing agreements or similar contracts; rights under preliminary and/or final plans, plats, parcel maps and all other development approvals; rights to receive or install water, sewer, wastewater, electricity, gas, telephone, telecommunications (including cable television, internet, ISDN, DSL, and T-1 lines, etc.), drainage, or other utilities or services; rights to build, construct or install streets, driveways, or other access on the Sale Parcel (or for the benefit of the Sale Parcel and if located outside of the Sale Parcel, Seller shall provide a conditional assignment of contract rights for all off-site improvements being constructed by Seller (or for its benefit) to benefit (in whole or in part) the Sale Parcel), including all agreements by Seller (or for its benefit) relating to the construction of roadways, ingress and egress to and from the Sale Parcel, access to the Sale Parcel and any sharing of costs arrangements related thereto; rights under any declarations of covenants, conditions, and restrictions or any reciprocal or other easement agreements; and all other development rights, powers, privileges, options or other benefits associated with, that pertain to, are attributable to, are appurtenant to, apply to, or which otherwise benefit all or any portion of the Sale Parcel but excluding any liabilities or obligations that pertain to the period prior to "Closing" (defined in Section 9.1) or otherwise do not pertain to the development of the Sale Parcel corresponding to the Development Rights being conveyed and/or assigned to Buyer.

(4) Contract Rights. The term "Contract Rights" means, with respect to all or any portion of the Sale Parcel, all of Seller's rights, titles, and interests in and to: any and all rents, leases, contract rights, guarantees, warranties, choses of action, and causes of action (except those choses of action and causes of action in the nature of "tort" owned by or inuring to Seller arising before the Closing) related to the Sale Parcel, or any of the foregoing.

C. As used herein, the term "Property" means the Sale Parcel, together with all of the Appurtenances, Condemnation Awards, Development Rights, and Contract Rights.

D. Seller desires to sell, transfer, and convey the Property to Buyer, and Buyer desires to purchase the Property from Seller, all for the Purchase Price and on the other terms and conditions hereinafter set forth.

E. Anything herein to the contrary notwithstanding, neither the term "Property" nor any of the constituent elements thereof, shall be deemed to include, and none of the terms or provisions of this Agreement shall be deemed to assign, convey, or otherwise transfer, or in any way limit, the Seller's rights, authority, discretion or function as a municipal corporation and political subdivision of the Commonwealth of Virginia in the exercise of any governmental or proprietary function with respect to the ownership, use, development, construction and operation of the Property and the Intended Improvements (hereinafter defined), including Seller's approval of subdivision plats and site plans as well as review and approval of construction plans and specifications, and inspections requisite for issuance of construction permits and certificates of occupancy.

NOW THEREFORE, intending to be legally bound, the parties hereto agree as follows:

Terms

1. **Sale and Purchase of the Property.** Seller hereby agrees to sell, transfer, and convey the Property to Buyer, and Buyer hereby agrees to purchase and accept the Property from Seller, for the Purchase Price and on and subject to the other terms and conditions set forth in this Agreement.

2. **Purchase Price.**

2.1. Subject to the terms and conditions of this Section 2.1, the purchase price for the Property (the "Purchase Price") shall be SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00).

2.1.1. Within five (5) business days after the date that this Agreement has been executed and delivered by both Seller and Buyer (the "Effective Date"), Buyer shall deliver to Buyer's title insurance company, _____ (the "Title Insurer"), the sum of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00), which sum will be delivered into escrow in accordance with Section 3. Such sum, together with all interest accrued thereon, is sometimes herein referred to as the "Deposit." The Title Insurer shall deposit such sum into an interest bearing escrow account in a federally insured financial institution (the "Escrow Account").

3. **Escrow Of Deposit.**

3.1. The Deposit shall be deposited with, and shall be held in the Escrow Account and disbursed by, the Title Insurer, all in accordance with the provisions of this Agreement, including this Section 3.

3.2. The Title Insurer shall acknowledge its receipt of the Deposit and agrees to hold the same and all other funds hereafter received by the Title Insurer on account of the Deposit, as escrowee, in the Escrow Account in strict compliance with the provisions of this Agreement.

3.3. Seller and Buyer agree, and hereby jointly instruct the Title Insurer, that the Deposit shall be disbursed as follows:

3.3.1. If Buyer terminates this Agreement pursuant to Section 6.1 (Conditions to be Satisfied on or before Due Diligence Period End Date), Section 6.2 (Conditions to be Satisfied By Buyer on or before the External Approvals Deadline), or any other applicable provision under which Buyer has the right to terminate this Agreement, then the Deposit will be disbursed to Buyer, and except for those obligations which expressly survive the termination of this Agreement, neither party will have any further obligations under this Agreement.

3.3.2. If Closing is not completed by reason of Buyer's default, then, pursuant to Section 13.1, the Deposit shall be paid over to Seller and retained as liquidated damages and as the sole remedy for such Buyer's default, and except for those obligations which expressly survive the termination of this Agreement, neither party will have any further obligations under this Agreement.

3.3.3. If and when Closing occurs hereunder:

- (a) the Deposit shall be credited against the Purchase Price; and
- (b) the balance of the Purchase Price (i.e., the difference of (i) the Purchase Price, minus (ii) the Deposit and all other funds remaining in the Escrow Account), subject to adjustments and apportionments as set forth herein, shall be paid at Closing in accordance with Section 9.3.1.

3.4. Seller and Buyer hereby instruct the Title Insurer (a) to disburse the Deposit to Buyer upon receipt of Buyer's timely notice of termination pursuant to Section 6.1 (Conditions to be Satisfied on or before Due Diligence Period End Date) without necessity of any further instructions or confirmation (written or oral) from Seller, and (b) that any contrary instructions of Seller (written or oral) are null and void and of no force or effect. Otherwise, the Title Insurer shall be obligated to disburse the Deposit at Closing or upon any cancellation or termination of this Agreement, only upon the written instructions of both parties, should the Title Insurer in its discretion request such instructions; and in the absence of such instructions or in the event of any dispute the Title Insurer shall be and is hereby authorized, but not obligated, to pay the Deposit into court.

3.5. The Title Insurer's performance hereunder is subject to the following:

3.5.1. The duties of the Title Insurer are only as herein specifically provided, and are purely ministerial in nature, and the Title Insurer shall incur no liability whatever except for willful misconduct or negligence, as long as the Title Insurer has acted in good faith;

3.5.2. The Title Insurer shall not be liable or responsible for the collection of the proceeds of any check for the Deposit;

3.5.3. In the performance of its duties hereunder, the Title Insurer shall be entitled to rely upon any document, instrument, or signature believed by it to be genuine and purportedly signed by either of the other parties or their successors or assigns;

3.5.4. The Title Insurer may assume that any person purporting to give any notice or instructions in accordance with the provisions hereof has been duly authorized to do so;

3.5.5. The Title Insurer shall not be bound by any modifications, cancellation, or rescission of this Agreement unless in writing and signed by Seller and Buyer; and

3.5.6. Seller (subject to applicable Laws) and Buyer shall jointly and severally reimburse and indemnify the Title Insurer for, and hold it harmless against, any and all loss, liability, costs, or expenses in connection herewith, including reasonable attorneys' fees and disbursements, incurred by the Title Insurer in connection with its acceptance or performance of its duties and obligations under this Agreement, as well as the reasonable costs and expenses of defending against any claim or liability arising out of or relating to the Title Insurer's performance under this Agreement, except to the extent of any negligence or willful misconduct by the Title Insurer.

4. **Covenants, Representations, and Warranties of Seller.** As used in this Agreement, "Seller's Knowledge" means the actual knowledge of facts or other relevant information by Chuck Rigney, Director of the Economic Development Authority of the City of Norfolk, Marcus D. Jones, City Manager of Norfolk, and Peter Chapman, Deputy City Manager of Norfolk (the "Seller's Representatives"), each without any duty to further investigate or inquire; however, Seller's Representatives shall not have any personal liability whatsoever for the representations and warranties made herein or for any other matters relating to this Agreement. Seller covenants, represents, and warrants to Buyer as follows:

4.1. Disclosed Information. Seller has provided to Buyer true, correct, and complete copies of all of the Disclosed Information identified in **Exhibit B** attached to and made a part of this Agreement (the "Disclosed Information"), and the Disclosed Information includes all of the following items that, to Seller's Knowledge, are in the possession or control of Seller, any person, agency or entity controlling, controlled by, or under common control with Seller (a "Seller Affiliate"), or any officer, director, member, principal, or employee of Seller or a Seller Affiliate (collectively, "Seller Parties;" each, individually, a "Seller Party"), or any contractor, agent, or other person or entity who is under the control Seller, a Seller Affiliate, or a Seller Party, or can be obtained by Seller, a Seller Affiliate, or a Seller Party from any contractor, agent, or other person or entity who prepared or furnished such Disclosed Information to Seller, such Seller Affiliate, or such Seller Party:

4.1.1. all applications and submissions (other than zoning applications and submissions), made by Seller, a Seller Affiliate, or a Seller Party to, and all permits, approvals, and licenses received by any Seller, a Seller Affiliate, or a from, any federal, state, City or municipal court, body, department, commission, board, bureau or agency, or other governmental or quasi-governmental instrumentality (including public utilities) having jurisdiction (each a "Governmental Authority" and collectively the "Governmental Authorities") that pertain to, are attributable to, are appurtenant to, apply to, or that otherwise benefit, burden, or otherwise affect the design, construction, development, ownership, operation, or use of all or any portion of the Property or the "Intended Improvements" (the "Existing Applications, Permits, Approvals and Licenses"), together with the zoning ordinances of the City of Norfolk, which, to Seller's Knowledge, are applicable to the Property. "Intended Improvements" means and includes an approximately 350,000 square foot blue and yellow IKEA retail furniture and furnishings store (including any other uses found from time to time in any other IKEA retail store), with an exclusive parking field (and future parking structure) of at least 1,200 spaces,¹ together with all of Buyer's required colors and trade dress and building and site signage and flags, including a navigational sign tower at least 120 feet in height (the "Navigation Sign"), all related on-site and off-site improvements, and any and all development and contract rights and all other appurtenances thereto necessary to develop the store and other improvements contemplated herein;

4.1.2. any and all agreements and other documents (the "Existing Utility Documents") regarding rights (the "Existing Utility Rights") to receive or install water (both potable and fire prevention), sanitary sewer, storm sewer, drainage, electricity, gas, telephone, telecommunications (including cable television, internet, ISDN, DSL, and T-1 lines), fiber optic,

¹ Buyer's square footage, store configuration (elevated or not), and parking requirements stated here are approximate and are subject to change during the due diligence process.

or other utilities (including service commitments, capacity, rights, allocations, taps and connections, capital improvement contracts, utility construction agreements with municipal or other public utilities, regional detention rights and rights to discounts, refunds or reimbursements) that pertain to, are attributable to, are appurtenant to, apply to, or that otherwise benefit, burden, or otherwise affect the design, construction, development, ownership, operation, or use of all or any portion of the Property or the Intended Improvements;

4.1.3. any and all agreements and other documents (the "Existing Access Documents") regarding rights (the "Existing Access Rights") to design, construct, develop, own, operate, or use any street, road, highway, driveway, right of way, access way, curb cut, point of entrance, point of exit, or other right or means of ingress and egress that pertains to, is attributable to, is appurtenant to, applies to, or that otherwise benefits, burdens, or otherwise affects the design, construction, development, ownership, operation, or use of all or any portion of the Property or the Intended Improvements;

4.1.4. all surveys, title policies, title searches, commitments, and reports (including copies of all vesting deeds and recorded documents referred to therein), and all other recorded and unrecorded agreements and other documents relating to survey or title (the "Existing Title and Survey Documents") that pertain to, are attributable to, are appurtenant to, apply to, or that otherwise benefit, burden, or otherwise affect the design, construction, development, ownership, operation, or use of all or any portion of the Property or the Intended Improvements;

4.1.5. any and all agreements or contracts (oral or written, formal or informal) or other documents (the "Existing Service Agreements") regarding construction, management, leasing, services, equipment, supply, security, maintenance, or concession that pertain to, are attributable to, are appurtenant to, apply to, or that otherwise benefit, burden, or otherwise affect the design, construction, development, ownership, operation, or use of all or any portion of the Property or the Intended Improvements;

4.1.6. all non-privileged reports, studies, and other documents (other than those prepared by Seller, a Seller Affiliate, or a Seller Party) (the "Existing Physical Investigation Documents") that pertain to, are attributable to, are appurtenant to, apply to, or that otherwise discuss or address any aspect of the physical condition or regulatory status of all or any portion of the Property, or otherwise affect the design, construction, development, ownership, operation, or use of all or any portion of the Property or the Intended Improvements, including:

- (a) "Hazardous Substances" (defined in Section 4.14.1) (including Phase I, Phase II, and any other environmental reports or studies);
- (b) geotechnical and soils;
- (c) wetlands;
- (d) flood plains;
- (e) stormwater;
- (f) traffic;

- (g) zoning, planning, replatting and subdivision;
- (h) historical, archeological, conservation, or endangered species;
- (i) environmental impact studies; or
- (j) development feasibility; and

4.1.7. any and all pleadings, agreements, and other documents (the "Existing Litigation Documents") that pertain to, are attributable to, are appurtenant to, apply to, or that otherwise discuss or address any aspect of any action, suit, proceeding, or litigation that was pending or threatened in writing against Seller or all or any portion of the Property at any time during the period of Seller's ownership of the Property; and

4.1.8. all other material information regarding the Property or the Intended Improvements.

4.2. Organization; Authorization.

4.2.1. Seller is a municipal corporation and political subdivision of the Commonwealth of Virginia validly existing under the laws of the Commonwealth of Virginia. The execution and delivery of this Agreement by Seller and the performance by Seller of its obligations hereunder have been duly authorized by all requisite action on the part of Seller.

4.2.2. This Agreement has been executed by all persons and entities necessary in order for Seller to execute, deliver, and perform Seller's obligations under this Agreement (excluding any action of Seller's administrative departments and bodies necessary or desired as part of the External Approvals [defined in Section 14.1] or with respect to acceptance by Seller or conveyance by Seller to Buyer of any property rights not currently contemplated by this Agreement) and all other transaction documents contemplated herein. The execution, delivery, and performance by Seller of this Agreement and all other transaction documents contemplated herein to which Seller is a party do not require any further or additional consents or approvals from, or any filings or registrations with, any Governmental Authority or any other person.

4.3. Enforceability. This Agreement is the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms, and, to Seller's Knowledge, there are no claims, defenses (personal or otherwise) or offsets to the validity of or enforceability against Seller of this Agreement and the documents to be delivered pursuant hereto.

4.4. No Breach. To Seller's Knowledge, the execution and delivery of this Agreement, the consummation of the transactions provided for in this Agreement and the fulfillment of the terms of this Agreement will not result in a breach of any of the terms or provisions of, or constitute a default or an acceleration under, any agreement to which Seller is a party or by which any of Seller or the Property is bound or materially affected, or any judgment, writ, trust, decree or order of any Governmental Authority, or any applicable law, statute, rule, regulation, code, judgment, ordinance, order, writ, injunction, decree, ruling, or requirement of any Governmental Authority (collectively, "Laws").

4.5. Title.

4.5.1. Seller is the current owner in fee simple of the Property, and the Property is vacant.

4.5.2. To Seller's Knowledge, the Property is free and clear of all mortgages, liens, claims, judgments, encumbrances, ground rents, leases, tenancies, licenses, security interests, covenants, conditions, restrictions, rights of way, easements, encroachments, and any other matters affecting title, except only the "Permitted Title Exceptions" (defined in Section 14.2), *provided* that nothing in this Section 4.5 shall limit Buyer's absolute right to examine the Permitted Title Exceptions during the Due Diligence Period and terminate this Agreement for any reason or no reason pursuant to Section 6.1 (Conditions to be Satisfied on or before Due Diligence Period End Date) or as otherwise permitted under this Agreement.

4.6. No Breach of Property Documents. To Seller's Knowledge, no default or breach exists under any covenants, conditions, restrictions, rights-of-way, easements, or other matters of record, if any, affecting all or any portion of the Property.

4.7. No Agreements of Sale. No person or other entity has any right, contract, or option to acquire all or any portion of the Property, and there currently exists no purchase agreement, lease agreement, option agreement, letter of intent, request for proposals, offer to build to suit, right of first refusal or first offer, or similar rights with respect to the Property or Seller, and any such prior purchase agreement, lease agreement, option agreement, letter of intent, request for proposals, offer to build to suit, right of first refusal or first offer, or similar right has been revoked or has expired according to its terms.

4.8. Leases. There are no leases, subleases, tenancies, licenses, or other rights of occupancy or use that affect all or any portion of the Property. At Closing, the Property shall be delivered to Buyer free and clear of any tenants or other occupants, and any other claims of occupancy rights, and Buyer shall be entitled to full possession of the Property at Closing.

4.9. No Condemnation. Seller (or any Seller Party) has received no notice of any pending, or, to Seller's Knowledge, threatened Condemnation, expropriation, eminent domain, or similar proceeding affecting all or any portion of the Property.

4.10. No Service Agreements or Employees. There currently exist no construction, management, leasing, service, equipment, supply, security, maintenance, concession, or other contracts or agreements (oral or written, formal or informal) with respect to or affecting all or any portion of the Property that will be binding on Buyer following the Closing.

4.11. Compliance with Laws. To Seller's Knowledge, no portion of the Property, and no method of operation of the Property, is, or ever has been, in violation ("*Violation*") of any Law; and there are no presently outstanding and uncured notices of Violations. Seller has not received any written or oral claim or notice that all or any portion of the Property is not in compliance with:

4.11.1. any Laws; or

4.11.2. any covenants, conditions or restrictions or other recorded or unrecorded documents affecting all or any portion of the Property.

4.11.3. To Seller's Knowledge the operation and use of the Property for Buyer's design, construction, development, ownership, operation, and use on the Property of the Intended Improvements will not violate any easements, covenants, conditions, restrictions, or other title matters affecting all or any portion of the Property. To Seller's Knowledge, no moratorium or other legal matter, proceeding or other fact or condition exists or is pending which threatens to prevent or impair the construction and operation of the Property for the Intended Improvements. No Governmental Authority is currently constructing or installing, nor has any Governmental Authority ordered to be made, improvements affecting the Property; to Seller's Knowledge, all street paving, curbing, sanitary sewers, storm sewers, and other municipal or other governmental improvements which have been constructed or installed have been paid for and will not hereafter be assessed, and all assessments heretofore made that are or were due have been paid in full; and there are no private contractual obligations relating to the installation of or connection to any sanitary sewers or storm sewers.

4.12. Litigation. There is no action, suit, proceeding, or litigation pending or, to Seller's Knowledge, threatened against all or any portion of the Property, or relating to or arising out of or affecting the value, ownership or operation of all or any portion of the Property, or the transactions contemplated hereby, in or before any Governmental Authority, whether or not covered by insurance. If any such action, suit or proceeding is threatened or commenced after the date of Closing (e.g. a slip and fall or other premises liability lawsuit), then Seller shall be responsible for the same and save, defend and hold Buyer harmless therefrom (including all reasonable attorneys' fees, costs and expenses incurred by Buyer in connection therewith) and shall cause its insurer to insure and defend against the same to the extent affecting the Property. There is no insolvency or bankruptcy proceeding pending or, to Seller's Knowledge, contemplated involving Seller as debtor. In the event any proceeding of the character described in this Section 4.12 is initiated prior to Closing, Seller shall promptly advise Buyer thereof in writing, in which event Buyer may terminate this Agreement at any time by notice to Seller, in which event the Deposit shall be disbursed in accordance with Section 3.3.1.

4.13. Taxes, Payments in Lieu of Taxes, and Assessments.

4.13.1. The Property is currently not subject to any state, City, local, or other taxes levied or assessed against the Property, and there will be no assessments of any kind levied on the Property until after Closing. To Seller's Knowledge, except for customary ad valorem taxes that will accrue on the Property after Closing, the sale and purchase of the Property contemplated by this Agreement shall not give rise to any such taxes, payments in lieu of taxes, penalties, interest or assessments with respect to which Buyer may or shall become liable as successor to Seller.

4.13.2. There is currently no proposed increase in the assessed valuation, and there is no proceeding pending for the reduction of the assessed valuation of all or any portion of the Property.

4.13.3. No portion of the Property is subject to or affected by any special assessment, whether or not there is presently a lien thereon.

4.13.4. Notwithstanding anything to the contrary set forth herein, Seller shall pay all state and other taxes (and payments in lieu of taxes) or assessments levied or assessed against the Property and which are due and payable at any time, before or after Closing, that relate to the period ending on the Closing Date.

4.14. Environmental Matters. To Seller's Knowledge, no Hazardous Substances have, during Seller's ownership of the Sale Parcel, been used, generated, treated, stored, released, discharged, or disposed of on all or any portion of the Sale Parcel except as expressly disclosed in the environmental reports (collectively, the "Environmental Reports") identified in the Disclosed Information listed in **Exhibit B** to this Agreement. Seller has made available to Buyer copies of all Environmental Reports and other material reports and written information in Seller's possession or control or available to Seller relating to the presence, existence, use, generation, treatment, storage, release, discharge, or disposal of Hazardous Substances in, on or under the Property or any portion thereof. To Seller's Knowledge, except as expressly disclosed in the Environmental Reports, (a) no written notification of release of any Hazardous Substance has been received by Seller, a Seller Affiliate, or a Seller Party, (b) no such notification has been filed as to the Property, (c) no Hazardous Substances are present on, in, or under the Property (including in the groundwater thereunder) that have been discovered by, or reported to, Seller, any Seller Affiliate, or any Seller Party, and (d) the Property has not been the subject of any environmental enforcement action, consent order, voluntary clean-up or other action involving the investigation, monitoring, response and/or remediation of Hazardous Substances at the direction, supervision or order of any applicable Governmental Authority and is not listed or formally proposed for listing on the National Priority List promulgated pursuant to CERCLA or on any state list of hazardous substance sites requiring investigation or clean-up. To Seller's Knowledge, except as may be set forth in the Environmental Reports, no PCB-contaminated, friable asbestos or formaldehyde-based insulation items or underground or aboveground storage tanks are present at the Property. To Seller's Knowledge, except as may be set forth in the Environmental Reports, no activities or occurrences are taking place or have taken place at the Property which might give rise to any basis for any of the foregoing.

4.14.1. As used in this Agreement, the term "Hazardous Substances" means and includes any hazardous substance or material which could be detrimental to the physical environment, persons or property, including individually and collectively:

- (a) chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, hazardous wastes, hazardous materials, whether solid, liquid or gaseous, including "hazardous materials," "hazardous waste," "toxic waste or substances," and/or "hazardous substances" as defined under:
 - (i). the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorizations Act of 1986, 42 U.S.C. Section 11002 et seq. ("SARA") and as subsequently amended, now or in the future;

- (ii). the Federal Superfund Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA");
 - (iii). the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq. ("FWPCA");
 - (iv). the Clean Water Act, 33 U.S.C. Section 1321 et seq. ("Clean Water Act"); or
 - (v). any other Environmental Laws; and
- (b) any materials, substances, or wastes that are toxic, ignitable, flammable, explosive, corrosive, reactive, carcinogenic, or toxic to the reproductive system, and that are regulated by any local Governmental Authority, any agency of the Commonwealth of Virginia, or any agency of the United States government;
 - (c) asbestos and asbestos-containing materials;
 - (d) oil, petroleum, petroleum fractions, petroleum additives, petroleum based products, and petroleum derived substances;
 - (e) any drilling fluids, produced water or other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources;
 - (f) urea formaldehyde foam insulation;
 - (g) lead and lead based paint;
 - (h) polychlorinated biphenyls (PCBs); and
 - (i) Freon and other chlorofluorocarbons.

4.14.2. For purposes of this Agreement, the term "Environmental Laws" shall mean and include any and all federal, state, or local laws, regulations, codes, statutes, rules, decrees, licenses, permits, approvals or authorizations, ordinances, decisions, orders, judgments, standards, guidelines, or requirements of any Governmental Authority relating to pollution or the environment, including laws and regulations relating to emissions, discharges, releases, migration, generation, storage, handling, disposal, transportation, use, treatment, manufacturing, processing or threatened releases of any Hazardous Substance, all as the same have been and may be from time to time amended, and all regulations adopted and publications promulgated pursuant to or under any such statute, rule, law, or ordinance (including CERCLA, SARA, the Federal Superfund Act, as amended by RCRA, FWPCA, the Clean Water Act, all as the same have been and may be from time to time amended) and all requirements regarding petroleum storage tanks and petroleum storage tank release cleanings.

4.15. No Flood Hazard Area. Except as disclosed by Seller to Buyer, no portion of the Property is located within an area:

4.15.1. designated by any Governmental Authority (on a flood insurance rate map or otherwise) as an "A" zone (High Risk Areas), a "V" zone (High Risk—Coastal Areas), a Special Flood Hazard Area, a floodplain, or a floodway; or

4.15.2. that the provisions of the Flood Disaster Protection Act of 1973 (or regulations promulgated thereunder) would require individuals, businesses, and others buying, building, or improving property located therein within participating communities to purchase flood insurance as a prerequisite for receiving any type of direct or indirect federal financial assistance (e.g., any loan, grant, guaranty, insurance, payment, subsidy, or disaster assistance) when the building or personal property is the subject of or security for such assistance.

4.16. FIRPTA. Seller is not a "foreign person," as defined in Section 1445(f)(3) of the Internal Revenue Code, and, if Seller is a "disregarded entity," as defined in Section 1445-2(6)(2)(iii) of the Internal Revenue Code, then the owner of Seller, similarly, is not a "foreign person," as defined in Section 1445(f)(3) of the Internal Revenue Code.

4.17. Utilities.

4.17.1. (i) All water, sanitary sewer, and other public utilities required for the operation of the Property for the Intended Improvements that are sufficient in size and capacity to serve the Intended Improvements (collectively, the "Required Utilities"), and (ii) all electric, gas, telephone, cable, and internet utilities, none of which are furnished by Seller, required for the operation of the Property for the Intended Improvements (collectively, "Franchise Utilities") are, or can be, directly connected to the lines and/or other facilities of the respective public authorities or utility companies providing such services or accepting such discharge, either through the Property or through easements or rights of way appurtenant to the Property;

4.17.2. Such easements or rights-of-way have been fully granted, and all charges for such easements or rights-of-way have been fully paid by Seller;

4.17.3. No moratorium, proceeding, or other fact or condition exists or is pending that threatens to impair the furnishing of the Required Utilities to the Property;

4.17.4. Water and sanitary sewer serving the Property are public; and

4.17.5. Buyer shall be responsible for the relocation of any utilities on the Property which is necessitated by Buyer's construction and for connecting to water, storm and sanitary sewer lines currently located in public rights of way. Connection fees and tap fees for such Required Utilities serving the Intended Improvements will be the responsibility of Buyer. The cost of Franchise Utility services for the Property shall be the responsibility of Buyer. In addition, Buyer shall cause all electric, telephone and other utility lines for the Property to be placed underground within public rights of way or utility easements located within the property lines. If the Required Utilities are not located in the public right of way or if the capacity of any of the Required Utilities does not meet the level required for the operation of the Property for the Intended Improvements, Seller agrees to extend or cause the extension of the Required Utilities to

the public rights of way and/or to update or upgrade any insufficient Required Utilities to the necessary level and capacity of operation, at Seller's sole cost and expense, in accordance with Section 6.2.2 below (collectively, the "Utility Improvement Work").

4.18. Mechanics' Liens. All contractors, subcontractors, and other persons or entities furnishing work, labor, materials, or supplies in connection with the Property have been paid in full and there are no claims against Seller or all or any portion of the Property in connection therewith. No mechanics', material suppliers', or other liens have been filed against all or any portion of the Property, which have not subsequently been released. No work has been performed or is in progress at, and no materials have been furnished to, all or any portion of the Property that, though not presently the subject of, might give rise to, mechanics', material suppliers', or other liens against all or any portion of the Property. If any lien for work or services performed or materials provided prior to Closing (and not caused by Buyer) is filed before or after Closing hereunder, Seller shall promptly (but not later than the earlier of thirty (30) days of filing or the day immediately preceding the Closing) discharge the same at "No Out-Of-Pocket Expense" to Buyer. As used herein as to any party, the term "No Out-Of-Pocket Expense" means that such party shall not be obligated to incur any costs and expenses, except that such party shall pay (A) any overhead or other internal costs incurred by such party arising out of such cooperation or other activity in which such party is to incur No Out-Of-Pocket Expense, and (B) such party's own attorneys' fees and costs incurred for advice and counsel rendered to such party and arising out of such cooperation or other activity in which such party is to incur No Out-Of-Pocket Expense.

4.19. No Environmentally Sensitive Areas; No Historic Areas. To Seller's Knowledge:

4.19.1. Except as disclosed by Seller to Buyer, no portion of the Usable Acreage is located within any area constituting a "wetland" or "other water of the United States" or "waters of the United States" or "waters of the Commonwealth of Virginia," as those terms are defined in the rules and regulations promulgated pursuant to the Clean Water Act, 42 U.S.C. §§1251 et seq. or other applicable Laws, or in a "coastal zone" as defined under Law;

4.19.2. no portion of the Property is designated by any Governmental Authority as an historic district, archeological district, or conservation district; and

4.19.3. no portion of the Property is otherwise restricted by any Governmental Authority or Law due to its physical characteristics (including the temporary or permanent presence thereon of any species protected by any Governmental Authority or Law) or its prior use (including historical uses, such as a burial ground).

4.20. Accuracy. No representation or warranty by Seller contained herein, and no statement or other information contained in any exhibit, certificate, or other instrument furnished or to be furnished to Buyer pursuant hereto or in connection with the transactions contemplated hereunder contains, or at the Closing shall contain, any untrue statement of a material fact or omits or shall omit to state a material fact necessary to make it not misleading.

4.21. No Nondisclosure of Material Adverse Condition. Notwithstanding any limitation that might otherwise be inferred from Sections 4.1 through 4.20 inclusive, Seller hereby specifically represents and warrants that Seller does not know of any facts or circumstances that

materially affect the value or desirability of the Property but which are not known to, or within the reach of diligent attention and observation of, Buyer.

4.22. Survival. All representations of Seller are made as of the Effective Date and shall be deemed remade at Closing, shall not merge into the "Deed" (defined in Section 9.2.1), and shall survive the Closing and the delivery and recording of the Deed for one (1) year ("Survival Period").

5. **Covenants, Representations, and Warranties of Buyer.** As used in this Agreement, "Buyer's Knowledge" means the actual knowledge of facts or other relevant information by Annette Banks (the "Buyer's Representative"), without any duty to further investigate or inquire; however, Buyer's Representative shall not have any personal liability whatsoever for the representations and warranties made herein or for any other matters relating to this Agreement. Buyer covenants, represents and warrants to Seller as follows:

5.1. Organization; Authorization. Buyer is a limited liability company duly organized and validly existing under the laws of the State of North Carolina, and prior to Closing will be duly qualified to do business in the Commonwealth of Virginia. Subject to receipt of the "Internal Approvals" (defined in Section 6.1.2), the execution and delivery of this Agreement and the performance by Buyer of its obligations under this Agreement have been duly authorized by all requisite corporate action, and this Agreement has been executed by all persons and entities necessary in order for Buyer to execute, deliver, and perform this Agreement and all other transaction documents contemplated herein. Except for the Internal Approvals, "Buyer's External Approvals" (defined in Section 14.1), and as otherwise set forth in this Agreement, the execution, delivery, and performance by Buyer of this Agreement and all other transaction documents contemplated herein to which Buyer is a party do not require consent or approval from, or any filing or registration with, any Governmental Authority or any other person.

5.2. Enforceability. This Agreement is the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, and there are no claims, defenses (personal or otherwise), or offsets to the validity of or enforceability against Buyer of this Agreement or any of the documents to be delivered pursuant to this Agreement.

5.3. No Breach. The execution and delivery of this Agreement, the consummation of the transactions provided for in this Agreement and the fulfillment of the terms of this Agreement will not result in a breach of any of the terms or provisions of, or constitute a default or an acceleration under any agreement to which Buyer is a party or by which Buyer is bound or materially affected, or any judgment, writ, trust, decree, or order of any Governmental Authority, or any applicable Laws.

5.4. Survival. All representations of Buyer are made as of the Effective Date and shall be deemed remade at Closing, shall not merge into the Deed, and shall survive the Closing and the delivery and recording of the Deed for the Survival Period.

6. **Conditions Precedent to Buyer's Obligations.** All of Buyer's obligations hereunder are expressly conditioned on the satisfaction, at or before the time of Closing hereunder or at or before such earlier time as may be expressly stated below, of each of the following conditions ("Buyer's

Conditions") (any one or more of which Buyer's Conditions may be waived in writing in whole or in part by Buyer, at Buyer's option):

6.1. Conditions to be Satisfied on or before Due Diligence Period End Date: For purposes of this Agreement, "Due Diligence Period") means the period of time commencing on the Effective Date and ending at 5:00 p.m., local time in the City, on November 30, 2016 (the "Due Diligence Period End Date"). On or before 5:00 p.m., local time in the City, on the Due Diligence Period End Date or such earlier time as may be expressly stated below:

6.1.1. Buyer may terminate this Agreement, in Buyer's sole discretion and for any reason or for no reason at all, by written notice delivered to Seller with a copy to the Title Insurer, on any business day within five (5) business days after the Due Diligence Period End Date;

6.1.2. Buyer shall be in receipt of "Approvals Evidence" of the written approval of this Agreement and all transactions contemplated therein by Buyer's board of directors (the "Internal Approvals"). For purposes of this Agreement, "Approvals Evidence" shall not be considered to have been "obtained" unless and until Buyer has received written evidence that such approval has been issued or such agreement has been fully executed and delivered to Buyer, and such issuance or execution and delivery is not subject to appeal, or, if appealed, such appeal has been successfully and finally resolved in favor of Buyer, and is not subject to any further appeal or other challenge (collectively, the "Approvals Evidence");

6.1.3. Seller and Buyer shall have approved in writing:

- (a) the Survey; and
- (b) the legal description of the Sale Parcel.

6.1.4. Each of Seller and Buyer shall have approved, in writing, the form of an agreement (the "Post-Closing Agreement"), to be entered into between Seller and Buyer at Closing and which shall not be recorded, pursuant to which Buyer will grant Seller a right to repurchase the Property if:

- (a) Buyer does not cause "Commencement of Construction" to occur within three (3) years after the "Closing Date" (defined in Section 9.1), subject to "Permitted Delays;"
- (b) Buyer does not cause "Substantial Completion of Construction" to occur within eighteen (18) months after Commencement of Construction, subject to "Permitted Delays"; or
- (c) Buyer does not open the Intended Improvements for business within six (6) months after Substantial Completion of Constuction, subject to "Permitted Delays".

In the case of Section 6.1.4(a) or 6.1.4(b) above, the Post-Closing Agreement shall provide that any purchase of the Property by Seller shall occur for a purchase price that reimburses Buyer for

the Purchase Price hereunder. In the case of Section 6.1.4(c), Seller shall pay to Buyer the greater of (a) the market value of the Property as determined by the median appraised value of appraisals obtained by Buyer, Seller, and a mutually-agreed upon third party MAI certified appraiser, or (b) the sum of 110% of the unamortized book value of the Intended Improvements actually constructed and the Purchase Price. Additionally, for purposes of the Post-Closing Agreement, the following definitions shall apply:

- (i). "Commencement of Construction" means the commencement of physical work of a significant nature on the construction of the Intended Improvements on the Property, such as commencement of a building foundation;
- (ii). "Substantial Completion of Construction" means the sooner to occur of (x) completion of the initial construction of the Intended Improvements on the Property to that stage when the Intended Improvements are sufficiently complete so that Buyer can occupy or utilize the Intended Improvements and (y) Buyer's receipt of a Certificate of Occupancy for the Intended Improvements; and
- (iii). "Permitted Delays" means any delay in any performance required under the Post-Closing Agreement by reason of strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, civil commotion, war-like operations, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls in the nature of emergency orders or moratorium, inability to obtain any material or service, Acts of God, or other reason of like nature not the fault of the party delayed in performing work or doing acts.

6.1.5. Seller shall have prepared a plat (the "Subdivision Plat") subdividing the City's property to create the Lake Buffer Parcel and the Sale Parcel, including an access easement across the Sale Parcel for the benefit of the Lake Buffer Parcel at a location mutually agreeable to the Buyer and Seller. The Subdivision Plat shall be prepared and recorded by Seller at Seller's sole expense prior to the Due Diligence Period End Date.

6.1.6. Buyer and Seller shall have approved in writing the form of an agreement to permit the installation and maintenance of stormwater outflow pipes on the Sale Parcel and the Lake Buffer Parcel as required by the site plan for the Intended Improvements ("Stormwater Agreement").

6.1.7. Buyer and Seller shall have approved in writing the form of an agreement permitting Buyer to conduct landscaping activities on the Lake Buffer Parcel, which agreement shall be subject to the approval of the Director of City's Department of Utilities ("Lake Buffer Parcel Landscaping Agreement").

6.1.8. If required by Escrow Agent, and in addition to Seller's efforts prior to the Effective Date, Seller shall have executed any additional documents, or shall have obtained any necessary additional signatures from third parties, required by Escrow Agent to remove from the Title Report (i) the restrictive covenant set forth in that certain Declaration of Restrictive Covenant dated June 21, 1990 and recorded in the Clerk's Office of the Circuit Court of the City of Norfolk in Deed Book 2266 at page 295, and (ii) the restrictive covenant set forth in that certain Declaration of Restrictive Covenant dated November 10, 1992 and recorded in the Clerk's Office in Deed Book 2446 at page 579 (together, the "Restrictive Covenants").

6.1.9. Buyer shall not have given notice of termination pursuant to Section 4.12 (Litigation), Section 6.3.5 (Title), Section 12.1 (Condemnation), Section 13.2 (Default by Seller), Section 14.2 (Title Commitment and Survey), or any other applicable provision under which Buyer has the right to terminate this Agreement on or before the Due Diligence Period End Date.

6.1.10. Seller have provided Buyer with all other documents necessary or reasonably desirable to effect the transaction contemplated herein;

6.1.11. If any one or more of the conditions described in Section 6.1.1, Section 6.1.2, and Section 6.1.3, are not met by the Due Diligence Period End Date, or if any of Buyer's other termination rights described in any of the provisions referred to in Section 6.1.4 or elsewhere in this Agreement become applicable at any time during the Due Diligence Period, then Buyer may terminate this Agreement, in Buyer's sole discretion and for any reason or for no reason at all, by written notice delivered to Seller with a copy to the Title Insurer, within five (5) business days after the Due Diligence Period End Date, in which event the Deposit shall be disbursed to Buyer in accordance with Section 3.3.1.

6.2. Conditions to be Satisfied on or before the External Approvals Deadline: On or before 5:00 p.m., local time in Norfolk, Virginia, the date that is the eighteenth (18th) monthly anniversary of the Due Diligence Period End Date, as the same may be extended (the "External Approvals Deadline") the "Buyer's External Approvals Condition" (defined in Section 14.1) shall have been satisfied;

6.2.2. Seller, at its sole expense, shall have completed the Utility Improvement Work so that all Required Utilities shall exist in the public rights of way adjacent to the Property in sufficient size and capacity to serve the Intended Improvements;

6.2.3. Seller shall have completed the Pre-Development Activities (defined herein) to Buyer's reasonable satisfaction;

6.2.4. Seller shall have completed the Traffic Improvements (defined herein) to Buyer's reasonable satisfaction;

6.2.5. Seller shall be completed all requisite action necessary to execute and deliver the Grant Agreement (defined in Section 8.1.2);

6.2.6. Seller, at its sole expense, shall have provided Buyer with Approvals Evidence that a sign overlay district has been established by the Seller at the Property that will

permit the Navigation Sign and other signage as Buyer may reasonably require for the Intended Improvements;

6.2.7. Subject to Buyer having obtained, at Buyer's sole cost and expense, a traffic study justifying the same, Seller, at its sole expense, shall have provided Buyer with Approvals Evidence that Seller has obtained a variance, waiver, or other action from the Governmental Authorities legally allowing Buyer's desired configuration of parking and number of parking spaces;

6.2.8. Seller, at its sole expense, shall have provided Buyer with Approvals Evidence that Seller has obtained a variance, waiver, or other action from the Governmental Authorities to allow Buyer to construct the Intended Improvements with reduced landscaping requirements;

6.2.9. Seller shall have delivered to Buyer Approvals Evidence for the installation of directional signs to the Intended Improvements to be installed in the public right-of-way of Northampton Boulevard in the proximity of Interstate 64 and Military Highway; and

6.2.10. Buyer shall not have given notice of termination pursuant to Section 4.12 (Litigation), Section 6.3.5 (Title), Section 12.1 (Condemnation), Section 13.2 (Default by Seller), Section 14.2 (Title Commitment and Survey), or any other applicable provision under which Buyer has the right to terminate this Agreement on or before the External Approvals Deadline.

6.2.11. If any of the conditions described above is not met by the External Approvals Deadline, or if any of Buyer's other termination rights described in any of the provisions referred to in Section 6.2.1 become applicable at any time on or before the External Approvals Deadline, then Buyer may terminate this Agreement, in Buyer's sole discretion and for any reason or for no reason at all, by written notice delivered to Seller with a copy to the Title Insurer, on any business day prior to and including the External Approvals Deadline, in which event the Deposit shall be disbursed to Buyer in accordance with Section 3.3.1.

6.3. Conditions to be Satisfied on the Closing Date:

6.3.1. No Termination. Buyer shall not have given notice of termination pursuant to any applicable provision under which Buyer has the right to terminate this Agreement.

6.3.2. Accuracy of Representations. All of the covenants, representations, and warranties of Seller contained in this Agreement shall have been true and correct in all material respects when made, and shall be true and correct in all material respects on the Closing Date, with the same effect as if made on and as of such Closing Date.

6.3.3. Performance. Seller shall have performed, complied with, and observed, in all material respects, all covenants, agreements, and conditions required by this Agreement to be performed, complied with, and observed on Seller's part prior to or as of Closing hereunder, all as set forth herein generally and particularly in Section 8.

6.3.4. Documents and Deliveries. All instruments and documents required on Seller's part to effect this Agreement and the transactions contemplated hereby, all as set forth

herein generally and particularly in Section 9.2, shall be delivered to Buyer or the Title Insurer, as applicable, and shall be in form and substance consistent with the requirements herein and otherwise reasonably satisfactory to Buyer and its counsel.

6.3.5. Title. At Closing, Seller, at its expense, shall deliver to Buyer good and marketable indefeasible fee simple title to the Property by special warranty deed (the "Deed"), free and clear of all liens, judgments, tenancies, and/or encumbrances of any kind whatsoever, subject only to the Permitted Title Exceptions and any other matters approved in writing by Buyer ("Approved Conditions of Title"). Buyer's obligation to complete Closing shall be conditioned upon the occurrence of the following events (the occurrence of such events, collectively, "Acceptable Title Condition"):

- (a) the Title Insurer shall be irrevocably committed to issue to Buyer, at Buyer's sole cost and expense, an ALTA Owner's Policy of Title Insurance in the amount of the Purchase Price, dated the date of the Closing ("Owner's Title Policy"), insuring that title to the Property is vested in Buyer in fee simple upon the Closing Date, subject only to the Approved Conditions of Title;
- (b) the Owner's Title Policy shall include:
 - (i). insurance of appurtenant easements;
 - (ii). a 9.1-06 endorsement (Restrictions, Encroachments and Minerals Endorsement);
 - (iii). an endorsement amending the survey exception except as to "shortages in area"; and
 - (iv). such other endorsements thereto as Buyer may request;
- (c) the Owner's Title Policy shall show that the Property is free and clear of all mortgages, liens, claims, judgments, encumbrances, ground rents, leases, tenancies, licenses, security interests, covenants, conditions, restrictions, rights of way, easements, encroachments, and any other matters affecting title, except only the Permitted Title Exceptions, at standard rates; and
- (d) no default or breach shall exist under any of the covenants, conditions, restrictions, rights-of-way, or easements, if any, affecting all or any portion of the Property.

Any instrument or deposit required to remove or discharge an objection to, or defect in, marketability of title, or to indicate the terms and amount of any mortgage or other lien on the Property, shall be in such form, terms, conditions, and amount, and be made in such manner as may reasonably be required by the Title Insurer to examine and insure title in order to satisfy the Title Insurer sufficiently to either to certify the said facts and/or omit any exception to title and/or guarantee to Buyer against collection of any item out of the Property. If Seller fails to deliver the

Property in Acceptable Title Condition, then Buyer may terminate this Agreement and receive a refund of the Deposit, in which event the Deposit shall be disbursed in accordance with Section 3.3.1. The cost of Owner's Title Policy shall be paid in accordance with Section 6.3.5(a).

6.3.6. Material Adverse Change. Between the date hereof and the date of Closing, there shall have been no material adverse change in the condition of the Property.

7. **Conditions Precedent to Seller's Obligations.** All of Seller's obligations hereunder are expressly conditioned on the satisfaction at or before the time of Closing hereunder of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Seller, at Seller's option):

7.1. Accuracy of Representations. All of the representations and warranties of Buyer contained in this Agreement shall have been true and correct in all material respects when made, and shall be true and correct in all material respects on the Closing Date with the same effect as if made on and as of such date.

7.2. Performance. Buyer shall have performed, complied with, and observed, in all material respects, all covenants, agreements, and conditions required by this Agreement to be performed, complied with, and observed on Buyer's part prior to or as of Closing hereunder.

7.3. Documents and Deliveries. All instruments and documents required on Buyer's part to effect this Agreement and the transactions contemplated hereby, all as set forth herein generally and particularly in Section 9.3, shall be delivered to Seller or the Title Insurer, as applicable, and shall be in form and substance consistent with the requirements herein and otherwise reasonably satisfactory to Seller and its counsel.

7.4. No Termination by Buyer. Buyer shall not have given timely notice of termination of this Agreement pursuant to any provision of this Agreement providing for such right of termination.

8. **Certain Covenants Pending Closing.**

8.1. During the period of time commencing on the Effective Date and expiring on the External Approvals Deadline (the "External Approvals Period"), subject to Buyer's termination rights hereunder, Buyer shall use reasonable efforts to obtain Approvals Evidence of:

8.1.1. Buyer's design, construction, development, ownership, operation, and use on the Property of the Intended Improvements;

8.1.2. such local, City, state, and federal contributions toward the construction and operation of the Intended Improvements (the "Incentives") as are deemed necessary and appropriate by Buyer, including the entering into at Closing of a Grant Agreement between the Economic Development Authority of the City of Norfolk and Buyer in materially the same form attached hereto as

Exhibit A
Parcel Plan And Legal Description Of Sale Parcel

Exhibit B
Disclosed Information

1. Preliminary Jurisdictional Determination Letter Dated 8/4/2015
2. NEDA Lake Wright East, Norfolk Wetlands Delineation Letter Dated 2/5/2007
3. Lake Wright East Traffic Impact Analysis Dated 1/11/2007
4. Report Of Preliminary Subsurface Exploration And Geotechnical Engineering Evaluation
Dated 10/24/2006

Exhibit C Traffic Development Plan



8.1.3. **Exhibit D** (the "Grant Agreement"), which Seller acknowledges may bear a different "Grantee" upon assignment under Section 18.1; and

8.1.4. the completion by Seller, at Seller's sole expense, of (a) any investigation, response, remediation plan, or remediation required by any Governmental Authority related in any way to Hazardous Substances located on, or in connection with, all or any portion of the Property, and (b) any relocation and/or removal of any wetlands from the Property that may be impacted by the development of the Intended Improvements within the Property (including both on-site and off-site mitigation required by any Governmental Authority) to include, without limitation, applications, surveying, permitting, regulatory and third party approvals and all on-site and off-site work necessary or required to address and/or mitigate potential wetlands impacts within the Property so that Buyer can construct the Intended Improvements after Closing without delay (collectively, the "Pre-Development Activities").

8.2. During the External Approvals Period, Seller shall use its best efforts to obtain Approvals Evidence of the External Approvals of:

8.2.1. permits and written commitments for timely funding, entitlements, and completion (without any financial contribution or other assessment from Buyer) by the applicable Governmental Authorities of all traffic improvements necessary for construction, development, ownership, operation, and use of the Intended Improvements, including the extension of the off-ramp from Interstate 64 southbound to extend to the westbound lanes Northampton Boulevard to allow access to the Property via a new traffic signal, median break, and left-hand turn in the approximate configuration as depicted as the "PROPOSED FUTURE TRAFFIC SIGNAL" and the "PROPOSED FUTURE TURN LANES" on the Development Plan attached hereto as **Exhibit C** or as otherwise approved by Buyer (the "Traffic Improvements"), which Seller acknowledges are important for the public health, safety and welfare in addition to the operation of the Intended Improvements; and

8.2.2. the Incentives.

8.3. During the External Approvals Period, Seller shall cooperate with, and use its commercially reasonable efforts to assist, Buyer in Buyer's efforts to obtain Approvals Evidence of the External Approvals of:

8.3.1. Buyer's design, construction, development, ownership, operation, and use on the Property of the Intended Improvements (including Seller expediting review and approval processes related to Buyer's site development and construction plan submissions);

8.3.2. the Subdivision Plat; and

8.3.3. the Pre-Development Activities.

8.4. During the period commencing on the Effective Date and ending upon the earliest to occur of (a) Closing, (b) the termination of this Agreement, or (c) the expiration of this Agreement, Seller shall not sell, lease, or otherwise transfer all or any portion of, or any interest in, the Property to any party other than Buyer (or agree to sell, lease, or otherwise transfer, or enter into negotiations toward any sale, lease, or other transfer), nor shall Seller in any material manner

alter the condition of the Property, including the removal therefrom of materials, personal property, buildings, improvements, or soil or other ground conditions.

8.5. Between the Effective Date of this Agreement and the Closing Date, Seller shall comply in all material respects with all applicable Laws affecting the Property, and duly and timely file all tax reports (or other applicable documentation in connection with payments in lieu of taxes) required to be filed by Seller and pay (or cause to be paid) prior to delinquency all taxes (and payments in lieu of taxes) and assessments, charges, fees, interest, and penalties levied on the Property.

8.6. Subject to the terms and conditions contained herein, Seller hereby grants to Buyer and Buyer's representatives, agents, employees, engineers, consultants, invitees, contractors, and subcontractors (collectively, the "Inspectors") a license to enter upon the Property and all other non-riparian real property owned or controlled by Seller or its affiliates and necessary or convenient to afford access to the Property (collectively, the "Seller's Entry Parcels") and to conduct such studies, examinations, and tests (including test borings) of Seller's Entry Parcels as may be reasonably required by Buyer to determine the suitability of the Property (and any applicable portions of Seller's Entry Parcels) for Buyer's purposes (collectively, the "Inspections"), including boundary surveys, environmental audits, soils tests, engineering inspections, and inquiries of appropriate Governmental Authorities with respect to, among other things, zoning, land use, parking, construction, and Environmental Law. Any such Inspections shall be at No Out-Of-Pocket Expense to Seller.

8.6.1. The license granted by this Section 8.6 shall be effective during the period commencing on the Effective Date and ending upon the earliest to occur of (a) Closing, (b) the termination of this Agreement, or (c) the expiration of this Agreement.

8.6.2. Buyer shall promptly repair any damage to Seller's Entry Parcels attributable to the conduct of the Inspections, and shall promptly return such portions of Seller's Entry Parcels as have been damaged by the Inspections to substantially the same condition as existed prior to the conduct thereof. Notwithstanding anything to the contrary as contained in this Section 8.6, all inspections performed pursuant to the license granted in this Section 8.6 shall be performed in a manner that does not materially interfere with the use, operation, or enjoyment of Seller's Entry Parcels, or materially interfere with the rights of any tenants on Seller's Entry Parcels.

8.6.3. Except to the extent that any of the same shall be caused by the negligence or misconduct of Seller, its agents, employees, or contractors, Buyer shall indemnify, defend, and hold harmless Seller ("Indemnified Party") by, from, and against any and all claims, demands, losses, judgments, liabilities, damages, and costs or expenses, including reasonable attorney's fees, investigative and discovery costs, court costs, and all other sums ("Indemnified Costs") that the Indemnified Party may pay, or become obligated to pay, on account of any claim or assertion of liability for personal injury or property damage arising or alleged to have arisen out of any act or omission of the Inspectors in connection with the entry onto Seller's Entry Parcels. Notwithstanding the foregoing, Buyer shall in no event be obligated to indemnify, defend, or hold any Indemnified Party harmless by, from, or against any Indemnified Costs that relate to or arise out of (a) the existing environmental condition of Seller's Entry Parcels, including any requirement to investigate, respond to, or remediate any existing environmental condition (whether known,

unknown, or otherwise) or any liability or claim that subjects Seller or any other party to any liability with respect to any such existing environmental condition of all or any portion of Seller's Entry Parcels; or (b) non-compliance of all or any portion of Seller's Entry Parcels with any applicable Laws. Nothing herein shall be construed to authorize Buyer or any Inspectors to subject all or any portion of Seller's Entry Parcels to any mechanics or similar liens arising out of the Inspections. Buyer shall carry commercial general liability insurance covering all activities conducted by Buyer and the Inspectors on Seller's Entry Parcels. Such insurance shall have limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for personal injury to or death of any one person, TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) for personal injury to or death of any number of persons in any one accident, and ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for property damage, and shall name Seller as an additional insured. Prior to any entry onto Seller's Entry Parcels by Buyer or its agents or representatives, and as a condition to Buyer's right to enter onto Seller's Entry Parcels, Buyer shall provide proof of such insurance to Seller.

8.6.4. The information, studies, and reports gathered by Buyer pursuant to this Section 8.6 (the "Entry Information") are confidential and are intended solely for the limited use and benefit of Buyer for the purpose of determining whether Buyer has any further interest in the acquisition of the Property. The Entry Information shall not be used by Buyer or any recipients other than in connection with evaluating the suitability of the Property for Buyer's purposes. Moreover, except as may be required by Law, Buyer agrees to reveal the Entry Information only to those recipients who need to know such Entry Information for the purpose of evaluating the suitability of the Property for Buyer's purposes, and to no other recipients. Notwithstanding any provision in this Agreement to the contrary, except as otherwise required by Law, neither Buyer nor Buyer's agents shall contact any Governmental Authority regarding Buyer's discovery of any Hazardous Substances on, or any environmental conditions at, the Property without Seller's prior written consent thereto, subject to requirements of applicable Laws and disclosures made in connection with the Approved Wetlands Mitigation.

8.7. At all reasonable times prior to Closing (including times following the Due Diligence Period), Seller shall permit Buyer and Buyer's engineers, consultants, attorneys, accountants, agents, and other representatives, as well as Buyer's prospective lenders and contractors:

8.7.1. to make investigations with regard to zoning and building code requirements, general feasibility of the Intended Improvements, the geotechnical and environmental condition of the Property, and other matters that Buyer deems necessary in the exercise of due diligence; and

8.7.2. to make applications for Buyer's External Approvals and any other approvals and permits deemed necessary by Buyer. Seller shall promptly cooperate with Buyer and execute applications and other documents required for Buyer to obtain such approvals and permits or other authorizations, and Seller hereby authorizes Buyer to make, in Seller's name, Buyer's name, or both, any such applications as Buyer considers advisable.

8.8. Between the Effective Date of this Agreement and the Closing Date, Seller shall promptly notify Buyer of any material change in any condition with respect to the Property, or any

event or circumstance to Seller's Knowledge that makes any representation or warranty of Seller to Buyer under this Agreement materially untrue or misleading. In addition, promptly after receipt thereof by Seller, Seller shall hereafter deliver to Buyer the following:

8.8.1. a copy of any bill, notice, or statement of value, or notice of change in a tax rate affecting or relating to the Property, that relates to taxes or payments in lieu of taxes;

8.8.2. a copy of any written notice of an actual or alleged violation of any Laws affecting or relating to the Property; and

8.8.3. a copy of any written notice of a casualty or Condemnation affecting or relating to the Property.

9. Closing; Deliveries.

9.1. Conveyance of title and payment of the Purchase Price under this Agreement (the "Closing") shall occur at 10:00 a.m., local time in Norfolk, Virginia, through closing escrow arrangements reasonably acceptable to Buyer and Seller by delivery of documents and funds to the Title Insurer on or before the date (the "Closing Date") that is thirty (30) days after date of satisfaction or written waiver of the last of Buyer's Conditions set forth in Section 6.1 and Section 6.2 and Seller's conditions in Section 7; *provided however*, that Buyer may accelerate the Closing Date at any time to a date that is no earlier than twenty (20) days after notice from Buyer to Seller. Notwithstanding the provisions of this Section 9.1, there shall be no requirement that Seller and Buyer physically attend the Closing, and all funds and documents to be delivered at the Closing may be delivered to the Title Insurer unless the parties hereto mutually agree otherwise. Buyer and Seller hereby authorize their respective attorneys to execute and deliver to the Title Insurer any additional or supplementary instructions as may be necessary or convenient to implement the terms of this Agreement and facilitate the closing of the transactions contemplated hereby, provided that such instructions are consistent with and merely supplement this Agreement and shall not in any way modify, amend, or supersede this Agreement.

9.2. At Closing, Seller shall deliver to the Title Insurer the following:

9.2.1. the Deed, executed and acknowledged by Seller and in proper form for recording in Norfolk, Virginia, so as to convey to Buyer title in fee simple to the Property, subject to the Permitted Title Exceptions with all local, state, municipal and other documentary stamp, deed or other document transfer taxes having been paid by Seller;

9.2.2. the Grant Agreement executed by the Economic Development Authority of the City of Norfolk and any other documentation necessary to unconditionally implement the Incentives;

9.2.3. the Post-Closing Agreement executed by Seller;

9.2.4. the Lake Buffer Parcel Landscaping Agreement executed by Seller;

9.2.5. the Stormwater Agreement executed by Seller;

9.2.6. all documents (if any) required in connection with the payment of any and all real estate transfer taxes or fees, duly executed by Seller and in proper form for submission to the City, with the Deed;

9.2.7. if applicable, copies of each bill for current real estate and ad valorem taxes (or payments in lieu of taxes) due and payable with respect to the Property, together with proof of payment thereof (to the extent the same have been paid);

9.2.8. if required by Title Insurer, a Foreign Investors Real Property Tax Act Certification and Affidavit in customary form ("*FIRPTA Certificate*") by Seller (or by Seller's owner, if Seller is a "disregarded entity" as defined in Section 1445-2(6)(2)(iii) of the Internal Revenue Code;

9.2.9. an affidavit as to possession of the Property, payment for all services and improvements provided to the Property and any other information reasonably required by the Title Insurer to issue Buyer's Owner's Title Policy without exception to matters customarily addressed by an owner's affidavit, substantially in the form attached hereto as **Exhibit E**;

9.2.10. copies of any and all resolutions of actions of Seller, or Seller's City Council, authorizing the transaction contemplated hereby and the execution and delivery of the Deed and all other documents required at Closing;

9.2.11. an instrument ("*Seller's Representation Certificate*") pursuant to which Seller remakes the representations made by Seller with respect to the Property pursuant to Section 4 above as of the Closing Date;

9.2.12. assignments in form and substance reasonably acceptable to both Seller and Buyer, sufficient to convey all right, title, and interest in and to any Development Rights and Contract Rights to be assigned hereunder, if applicable;

9.2.13. all applicable transfer tax form(s), affidavit(s), and/or declaration(s) required by any applicable Laws and/or Governmental Authorities with respect to the transfer of title to the Property, including any city, State, or other local transfer tax form, affidavit, or declaration, to the extent such forms, if not currently required by Law, may become requirements between the Effective Date hereof and the Closing Date;

9.2.14. immediately available funds in the amount of any and all applicable transfer taxes;

9.2.15. all other instruments and documents reasonably required by the Title Insurer to effectuate this Agreement and the transactions contemplated thereby, which shall have been executed and delivered by all necessary parties other than Buyer; and

9.2.16. Seller shall reimburse Buyer for the cost of the Survey in immediately available funds, which shall be paid from the proceeds due to Seller at Closing.

9.3. At Closing, Buyer shall deliver to the Title Insurer:

9.3.1. a wire transfer of immediately available funds for the balance of the Purchase Price, subject to adjustments as provided in this Agreement, and payable to or transferred to the Title Insurer, with instructions to the Title Insurer to pay and transfer the same to the order or account of Seller or to such other persons as Seller shall designate in writing;

9.3.2. the Grant Agreement executed by Buyer;

9.3.3. the Post-Closing Agreement executed by Buyer;

9.3.4. the Lake Buffer Parcel Landscaping Agreement executed by Buyer;

9.3.5. the Stormwater Agreement executed by Buyer;

9.3.6. all documents (if any) required in connection with the payment of any and all real estate transfer taxes or fees by Seller, duly executed by Buyer and in proper form for submission to the City, with the Deed; and

9.3.7. all other instruments and documents reasonably required by the Title Insurer to effectuate this Agreement and the transactions contemplated thereby, which shall have been executed and delivered by all necessary parties other than Seller.

9.4. Upon Closing, the Title Insurer shall promptly undertake all of the following in the manner indicated:

9.4.1. Prorate all matters referenced in Section 11 based upon the statement delivered into escrow signed by the parties;

9.4.2. Cause to be recorded with the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, the Deed, and any other documents that the parties hereto may mutually direct, and send copies of Deed with the City Clerk's filing notation set forth thereon, to Buyer's counsel as and when the same are received by the Title Insurer;

9.4.3. Disburse from funds deposited by Buyer with the Title Insurer towards payment of all items chargeable to the account of Buyer pursuant hereto in payment of such costs, including the payment and transfer of the Purchase Price to Seller, and disburse the balance of such funds, if any, to Buyer;

9.4.4. Issue, or irrevocably, unconditionally, and unqualifiedly agree in writing to issue, the Owner's Title Policy to Buyer;

9.4.5. Deliver to Buyer the FIRPTA Certificate (if required), the Grant Agreement, and any other documents to be delivered to Buyer hereunder; and

9.4.6. Deliver to Seller any other documents to be delivered to Seller hereunder.

9.5. Notwithstanding anything to the contrary set forth herein, if all conditions to Closing have otherwise been satisfied hereunder, then Buyer may elect, by notice to Seller, to defer Closing until the Pre-Development Activities have been completed, but in no event later than June 30, 2018.

10. No Liabilities; No Assumption of Contract Obligations. Buyer shall not assume or take subject to any "New Encumbrances" or "Monetary Liens" (as both terms are defined in Section 14.2.4 below) or any other liabilities or obligations of the Property or Seller existing or accrued as of the date of Closing with the exception of the Permitted Title Exceptions, and Seller shall pay the same (other than the Permitted Title Exceptions) as they mature and shall hold Buyer harmless with respect to same. Except as otherwise set forth in this Agreement liabilities and obligations of the Property accruing after the date of Closing shall be the responsibility of Buyer or the Property, as the case may be.

11. Apportionments; Expenses.

11.1. Apportionment. All income and all expenses and obligations relating to the operation of the Property shall be prorated between Buyer and Seller as of midnight of the day preceding the date of Closing. Real property taxes and payments in lieu of taxes and assessments on the Property shall be prorated so that Seller is responsible for all such taxes and payments in lieu of taxes and assessments for the fiscal years occurring prior to the Current Tax Period. The phrase "Current Tax Period" refers to the fiscal year of the applicable taxing authority in which the Closing occurs. In the event that as of the Closing, the actual tax bills (or bills for payments in lieu of taxes) for the Current Tax Period in question are not available and the amount of taxes and payments in lieu of taxes to be prorated as aforesaid cannot be ascertained, then rates and assessed valuation of the previous fiscal year, with known changes, shall be used, and when the actual amount of taxes and payments in lieu of taxes and assessments for the Current Tax Period in question shall be determinable, then such taxes and payments in lieu of taxes and assessments will be re-prorated between the parties to reflect the actual amount of such taxes and payments in lieu of taxes and assessments. If, on the date of Closing, the Property shall be affected by any special assessment, then all installments of such assessment due and payable on or prior to the Closing Date shall be paid and discharged by Seller prior to or at Closing, and any remaining installments shall constitute Permitted Title Exceptions and shall be assumed by Buyer. Notwithstanding anything to the contrary contained in this Agreement, real property taxes and payments in lieu of taxes and assessments on the Property shall be further prorated so that Buyer is responsible for only the percentage that the number of acres of the Property bears to the total number of acres of the Sale Parcel.

11.2. Expenses. Except as otherwise expressly set forth in this Agreement, each party shall pay all its own expenses incurred in connection with this Agreement and the transactions contemplated hereby, including (a) all costs and expenses stated herein to be borne by a party, and (b) all of their respective accounting, legal, and appraisal fees. Seller represents and warrants that Seller is exempt from payment of the Virginia Grantor Tax and similar transfer taxes imposed on sellers of real estate in the Commonwealth of Virginia. In addition to its other expenses, Seller shall pay for all costs and expenses of preparing, executing and recording any corrective instruments or actions and the preparation of the closing documents. In addition to its other expenses, Buyer shall pay the State Grantee Tax, the Local Grantee Tax and the recording fees in

connection with the transfer of the Property and recording of the Deed. Buyer shall pay the Title Insurer's customary charges to buyers and sellers for drafting documents and miscellaneous charges. Buyer shall also pay all escrow and closing fees charged by Title Insurer to hold the Deposit and coordinate the Closing.

12. Condemnation.

12.1. If at any time prior to the expiration of the Due Diligence Period, a Condemnation of all or any portion of the Property occurs, then Buyer may, on or before the later of (a) the Due Diligence Period End Date, or (b) the date that is forty-five (45) days after Buyer's receipt of written notice from Seller of such Condemnation, terminate this Agreement by written notice to Seller with a copy to the Title Insurer, in which event the Deposit shall be disbursed to Buyer in accordance with Section 3.3.1, and, thereafter, this Agreement shall be null and void and neither party shall have any other claim against the other under this Agreement, nor any other legal or equitable cause of action against the other. Seller shall give Buyer written notice of any actual or threatened taking within fifteen (15) business days after Seller's receipt of written notice of any such actual or threatened taking, and, in any event, prior to Closing.

12.2. If a Condemnation occurs at any time after the expiration of the Due Diligence Period but prior to Closing, then Buyer shall have the option to adjourn the Closing for a period of forty-five (45) days after the date Seller notifies Buyer in writing of such condemnation, and:

12.2.1. Buyer may terminate this Agreement by written notice to Seller with a copy to the Title Insurer, given not later than forty-five (45) days after the date Seller notifies Buyer in writing of such Condemnation. If this Agreement is terminated pursuant to this Section 12.2.1, then the Deposit shall be disbursed to Buyer in accordance with Section 3.3.1, and, thereafter, this Agreement shall be null and void and neither party shall have any other claim against the other under this Agreement, nor any other legal or equitable cause of action against the other; or

12.2.2. If Buyer does not exercise its right to terminate pursuant to Section 12.2.1, then the parties shall proceed with Closing with no abatement of the Purchase Price, but all condemnation awards paid or payable to Seller shall belong to Buyer and shall be paid over and assigned to Buyer at Closing, and Seller shall further execute all assignments and any other documents or other instruments as Buyer may reasonably request or as may be necessary to transfer all interest in all such proceeds and/or awards to Buyer or to whomever Buyer shall direct.

13. Defaults.

13.1. **DEFAULT BY BUYER. IN THE EVENT BUYER IS IN DEFAULT UNDER THIS AGREEMENT AND FAILS TO CURE SUCH DEFAULT WITHIN TWENTY (20) BUSINESS DAYS AFTER WRITTEN NOTICE OF DEFAULT FROM SELLER, AND IF, AS A RESULT OF SUCH UNCURED DEFAULT BY BUYER, CLOSING HEREUNDER SHALL NOT OCCUR, THEN SELLER SHALL, AS ITS SOLE REMEDY FOR DEFAULT HEREUNDER, BE ENTITLED TO PAYMENT OF THE AMOUNTS TO BE DISBURSED TO SELLER OUT OF THE DEPOSIT IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH HEREIN AS LIQUIDATED DAMAGES (AND NOT AS A PENALTY) AND**

AS SELLER'S SOLE REMEDY, IN LIEU OF, AND AS FULL COMPENSATION FOR, ALL OTHER RIGHTS OR CLAIMS OF SELLER AGAINST BUYER BY REASON OF SUCH DEFAULT; AND WHEN BUYER AUTHORIZES THE TITLE INSURER TO TENDER PAYMENT TO SELLER OF THE AMOUNTS TO BE DISBURSED TO SELLER OUT OF THE DEPOSIT IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH HEREIN, EXCEPT FOR THE OBLIGATIONS WHICH EXPRESSLY SURVIVE THE TERMINATION HEREOF, THIS AGREEMENT SHALL TERMINATE AUTOMATICALLY WITHOUT THE NEED OF ANY FURTHER WRITTEN CONFIRMATION, AND THE PARTIES SHALL BE RELIEVED OF ALL FURTHER OBLIGATION AND LIABILITY HEREUNDER.

13.2. Default by Seller. In the event Seller is in default under this Agreement and fails to cure such default within fifteen (15) business days after written notice of default from Buyer, or if such default cannot reasonably be cured within such fifteen (15) business day period, the Seller fails either (i) to commence to cure such default within such fifteen (15) day period and to diligently continue to pursue such effort to cure to completion, or (ii) to cure such default within a reasonable time after the expiration of the first fifteen (15) day period, in no event to exceed forty-five (45) days after the written notice of default, then Buyer shall be entitled as its sole remedy to (a) specifically enforce this Agreement against Seller and recover enforcement costs and fees, or (b) terminate and cancel this Agreement and receive and/or be paid the monies and amounts as described below. In the event Seller is in default under this Agreement and Buyer elects to terminate and cancel this Agreement, Buyer shall give notice to Seller and the Title Insurer of such termination and of the amount of all actual and reasonable third party out of pocket costs incurred by Buyer in connection with the transactions contemplated by this Agreement (including the preparation of construction drawings (collectively, "Buyer's CDs"), but only if and to the extent that the costs of such preparation have been irrevocably committed by Buyer at the time of such default by Seller) together with reasonably supporting documentation thereof, in which event the Deposit shall be returned to Buyer as provided in this Agreement and Seller shall reimburse Buyer within ten (10) days after such notice of termination is given for all such out of pocket costs; and upon receipt by Buyer of all such monies and amounts, this Agreement shall terminate and, thereafter, this Agreement shall be null and void and neither party shall have any other claim against the other under this Agreement, nor any other legal or equitable cause of action against the other. In the event of Closing it is agreed by the parties hereto that the foregoing shall not in any way diminish or limit any of Seller's indemnification obligations specifically set forth in this Agreement, or any of Seller's other obligations surviving the Closing as provided hereunder or any of Buyer's remedies in connection therewith, including the right to pursue damages incurred by reason of a material breach or other material violation of the representations and warranties set forth in, and subject to, Section 4. The rights, options, and remedies of Buyer under this Agreement shall be cumulative. The exercise by Buyer of any right, option or remedy shall not prejudice or impair any of Buyer's other rights, options or remedies except as otherwise expressly provided herein. The passage of time after the occurrence of a default by Seller shall not prejudice or limit any of Buyer's rights, options or remedies.

14. Buyer's Additional Rights.

14.1. Buyer's External Approvals. On or before 5:00 p.m., local time in the City, on the External Approvals Deadline (defined in Section 6.2): (i) Buyer shall have received Approvals

Evidence of conditional site plan for the Intended Improvements, and; (ii) Buyer shall be in position to receive, in Buyer's reasonable judgment and with no remaining discretionary approvals required by any Governmental Authority, Approvals Evidence of final, unappealed, and unappealable permits and approvals (including Buyer's building permit) (collectively, the "Buyer's External Approvals"), issued by applicable Governmental Authorities, for: (a) Buyer's design, construction, development, ownership, operation, and use on the Property of the Intended Improvements; (b) the Traffic Improvements; including evidence acceptable to Buyer that the Traffic Improvements will be fully completed and operational no more than six (6) months after the Closing Date; (c) the Incentives (except for the final execution of the Grant Agreement, the terms of which have been approved by Seller and the Economic Development Authority of the City of Norfolk, as applicable, but which document will not be executed and delivered until Closing); and (d) the completion of the Pre-Development Activities. Buyer shall be deemed to have achieved Buyer's External Approvals of subsection 14.1(a) above if (i) Buyer has received conditional approval of its site plan from all applicable Governmental Authorities for the Intended Improvements that only remains subject to the completion of limited final conditions that, in Buyer's reasonable judgment, can be satisfied by Buyer without unreasonable cost or delay and without the need for additional discretionary approvals of any Governmental Authority, and (ii) Buyer has received reasonable evidence that a building permit for the construction of the Intended Improvements will be issued without delay upon Buyer satisfying the remaining limited conditions and achieving final unconditional approval of Buyer's site plan.

14.1.1. If Buyer has not received Approvals Evidence of the Buyer's External Approvals by the External Approvals Deadline, then Buyer shall have the right to terminate this Agreement by notice of termination to Seller within five (5) business days after the External Approvals Deadline, given in accordance with Section 16, in which event the Deposit shall be disbursed to Buyer in accordance with Section 3.3.1, Seller shall reimburse Buyer for soft costs related to the Traffic Improvements (traffic studies, turn lane design and analysis) up to \$60,000.00, and except for the obligations set forth in this Agreement which expressly survive the termination hereof, the parties shall be relieved of all further obligation and liability hereunder. If Buyer fails to terminate this Agreement for failure of the condition set forth in this Section 14.1 (the "Buyer's External Approvals Condition") by written notice to Seller within five (5) business days after the External Approvals Deadline, then Buyer shall be deemed to have waived its right to terminate this Agreement for failure of the Buyer's External Approvals Condition.

14.2. Buyer's Title and Survey Review and Approval.

14.2.1. Title Commitment and Survey. Within five (5) business days after the Effective Date, Buyer shall order a current preliminary report or title commitment from the Title Insurer with respect to the Property (the "Title Report") and shall cause a copy of the Title Report to be delivered to Seller. No later than ten (10) business days after the probable boundary of the Property has been determined pursuant to Section 2.1, Buyer shall order an ALTA/ACSM land title survey and topographic survey of the Sale Parcel (collectively, the "Survey") and shall cause a copy the Survey to be delivered to Seller within ten (10) business days after Buyer receives a Survey draft that is acceptable to Buyer. Buyer shall pay for the cost of the Survey, subject to reimbursement at Closing pursuant to Section 9.2.16. Buyer shall have the right to terminate this Agreement if Buyer does not approve of the condition of title or Survey in accordance with the provisions of this Section 14.2. Upon Buyer's approval of the Survey, the legal description of the

Sale Parcel set forth on the Survey shall be automatically substituted for the descriptions set forth in this Agreement for all purposes, and, upon Buyer's written request, Seller shall enter into an amendment to this Agreement, confirming the automatic substitution provided for in this sentence.

14.2.2. Buyer's Title Objection. On or before the Due Diligence Period End Date, Buyer may give Seller written notice ("Buyer's Title Notice") of Buyer's disapproval of any item or exception disclosed by the Title Report or Survey to which Buyer has an objection (each, a "Title Objection"; collectively, the "Title Objections"). Subject to the following provisions, all exceptions to title or survey subject to which Buyer agrees to take title to the Property pursuant to the terms of this Section 14.2 are collectively referred to as the "Permitted Title Exceptions." Notwithstanding anything to the contrary herein or in any Buyer's Title Notice, the Property shall be conveyed subject to the following matters, which shall be included as Permitted Title Exceptions:

- (a) Those matters that either are not objected to in writing within the time periods provided herein, or if objected to in writing by Buyer, are those which (i) Seller has elected not to remove or cure, or has been unable to remove or cure, and (ii) pursuant to the provisions below, Buyer has elected or is deemed to have elected to accept as Permitted Title Exceptions;
- (b) The lien of all ad valorem real estate taxes and payments in lieu of taxes and assessments not yet due and payable as of the Closing Date, subject to adjustment as herein provided; and
- (c) Items shown on the Survey and not objected to by Buyer or waived or deemed waived by Buyer in accordance with the terms of this Section 14.2.2; however, in an effort to not clutter the record title, these matters shall not be listed as exceptions on the Deed unless raised by the Title Insurer.

14.2.3. Seller's Title Response. Within ten (10) business days after its receipt of Buyer's Title Notice, Seller shall notify Buyer in writing ("Seller's Title Response") whether Seller elects to cause the Title Objections noted in Buyer's Title Notice to be removed or, with the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion, to be affirmatively insured over at Seller's sole cost and expense in such manner as Buyer approves (subject, however, to the obligations of Seller stated in Section 14.2.4). The failure of Seller to deliver Seller's Title Response to Buyer within the specified time period shall be deemed Seller's refusal to eliminate any of the Title Objections set forth in Buyer's Title Notice (provided, however, that Seller may not refuse to discharge the obligations of Seller stated in Section 14.2.4). If Seller elects to cure any such Title Objections, then Seller shall on or prior to the Closing Date cure such Title Objections. If Seller elects not to cure any or all of the Title Objections noted in Buyer's Title Notice (provided, however, that Seller may not refuse to discharge the obligations of Seller stated in Section 14.2.4), or fails timely to cure any such Title Objections that Seller has elected to cure in Seller's Title Response (collectively, "Uncured Title Objections"), then Buyer may elect either (a) to close the acquisition of the Property subject to the Uncured Title Objections (which, in the event of Buyer's election to close, shall thereafter be deemed Permitted Title Exceptions hereunder,

but the Uncured Title Objections shall in no event include New Encumbrances or Monetary Liens) and the other Permitted Title Exceptions, except to the extent of Monetary Liens described below which shall be paid from the Purchase Price at the Closing; or (b) to terminate this Agreement by written notice thereof to Seller on or before the later of (i) the Due Diligence Period End Date, or (ii) the date that is thirty (30) days after Buyer's receipt of such Seller's written notice that Seller is unable or unwilling to cure any Title Objection. In the event Buyer terminates pursuant to the foregoing, then the Deposit shall be disbursed to Buyer in accordance with Section 3.3.1, and except for the obligations set forth in this Agreement which expressly survive the termination hereof, the parties shall be relieved of all further obligation and liability hereunder.

14.2.4. Seller Encumbrances. Notwithstanding anything to the contrary set forth herein, between the Effective Date of this Agreement and the Closing Date:

- (a) Seller shall not create, incur, or suffer any easement, liens, encumbrances, exceptions to title, survey exceptions, or obligations pertaining to all or any portion of the Property ("New Encumbrances") to be placed against or otherwise affect all or any portion of the Property unless such New Encumbrances have been previously approved by Buyer in writing (such approval not to be unreasonably withheld, so long as the same meet the requirements of this Section 14.2.4(a) and are actually removed by Seller) and will be, and are capable of being, removed by Seller at or prior to Closing at No Out-Of-Pocket Expense to Buyer; and
- (b) Seller shall eliminate from title any of the following arising by, through, or under Seller, any liens for unpaid taxes or payments in lieu of taxes; assessments and other charges which are due and payable; any contractors', mechanics', and materialman's or similar liens; any judgment liens; and any mortgages, deeds of trust, and security interests encumbering the Property (collectively, "Monetary Liens"). In no event shall any Monetary Liens be considered Permitted Title Exceptions.

14.2.5. Gap Title and Survey Defects. Subject to Seller's obligations in this Section 14, Buyer may, at or prior to Closing, notify Seller in writing from time to time (each, a "Buyer's Subsequent Title Notice") of any newly identified exceptions to title or survey or encumbrance on the Property not reflected on either the Title Report or the Survey at the time the Buyer's Title Notice is given but raised or reflected in any update or "bringdown" of the Title Report, Survey, or legal description thereafter received by Buyer (each, a "Title Update") or otherwise discovered by Buyer (each, a "Gap Title Objection"; collectively, the "Gap Title Objections"). In any event, Buyer shall notify Seller of such Gap Title Objection within ten (10) business days of being made aware of the existence of such exception; failure by Buyer to notify Seller of such Gap Title Objection within such prescribed time shall cause any such Gap Title Objection to thereafter be deemed to be a Permitted Title Exception hereunder. If, within such time period, Buyer delivers a Buyer's Subsequent Title Notice to Seller, Buyer and Seller shall have the same rights and obligations with respect to such notice as apply to Buyer's Title Notice under

Sections 14.2.2 and 14.2.3 hereof, with the Buyer's Subsequent Title Notice being treated as a Buyer's Title Notice.

15. Undertakings by Seller and Buyer. Buyer acknowledges and agrees that wherever in this Agreement Seller has agreed to cooperate with, or otherwise assist, Buyer in obtaining any license, permit, authorization, consent, approval, incentive or other concession or agreement including, without limitation, any Buyer's External Approvals, (i) it shall mean that the Department of Development and its staff, only, will undertake such activities (and not any other departments of the Seller); (ii) Seller's obligation shall be to act in good faith but not required to achieve any particular outcome or result; and (iii) such agreement shall not eliminate, or be deemed to modify, the requirements or process for obtaining such license, permit, authorization, consent, approval, incentive or other concession or agreement which would normally be required of Buyer in the absence of such Seller cooperation. In addition to the obligations required to be performed hereunder by Seller and Buyer at Closing, each of Seller and Buyer agree to perform such other acts, and to execute, acknowledge, and deliver, prior to, at, or subsequent to Closing, such other instruments, documents, and other materials as shall be necessary in order to effect the consummation of the transactions contemplated hereby and to vest title to the Property in Buyer or Buyer's nominee. Notwithstanding the foregoing, Buyer's and Seller's respective obligations under this Section 15 shall be at No Out-Of-Pocket Expense to such party.

16. Notices. All notices and other communications hereunder shall be in writing (whether or not a writing is expressly required hereby), and shall be deemed to have been given and become effective if sent by either party or its counsel via an express mail service or via courier or via email (in the case of email, only if duplicate notice is also given via express mail service or via courier, in which event the notice shall be deemed effective on receipt of the email), then if and when delivered to and received (or refused) by the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby), and addressed to the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby):

If to Seller:

Director of Economic Development
500 East Main Street, Suite 1500
Norfolk, VA 23510
Tel: (757) 664-4763
Attn: Chuck Rigney
Email: Chuck.Rigney@norfolk.gov

City Manager
1101 City Hall Building, 810 Union Street
Norfolk, Virginia 23510
Tel: (757) 664-4242
Attn: Marcus D. Jones
Email: city.manager@norfolk.gov

Deputy City Manager & Executive Director of Economic Development
Authority

500 East Main Street, Suite 1500
Norfolk, VA 23510
Tel: (757) 664 - 4338
Attn: Peter Chapman
Email: Peter.chapman@norfolk.gov

With an additional required copy to Seller's legal counsel:

City Attorney
900 City Hall
810 Union Street
Norfolk, VA 23510
Tel: (757) 664-4529
Attn: Bernard A. Pishko
Email: Bernard.Pishko@norfolk.gov

If to Buyer:

IKEA Property, Inc.
420 Alan Wood Road
Conshohocken, PA 19428
Attention: President
Phone: 610-834-0180
Email address: douglas.greenholz2@ikea.com

With a required copy to:

IKEA Property, Inc.
420 Alan Wood Road
Conshohocken, PA 19428
Attention: Annette Banks
Phone: 610-834-0180
Email address: annette.banks@ikea.com

With an additional required copy to Buyer's counsel:

Larsson & Scheuritzel P.C.
Centre Square West
1500 Market Street, Suite 3510
Philadelphia, PA 19102
Attention: David J. Larsson, Esq.
Phone: 215-656-4221
Email address: dlarsson@larssonlaw.com

17. **Brokers.** Seller and Buyer each acknowledge and represent to the other that no brokers are involved in this transaction except that Buyer has dealt with Sezin B. Cortinas of Divaris Real Estate, Inc., One Columbus Center, Suite 700, Virginia Beach, VA 23462 ("Buyer's Broker").

When and if a Closing hereunder shall occur, but not otherwise, Buyer will pay any commission due and payable to Buyer's Broker pursuant to the terms of a separate agreement. Buyer shall indemnify Seller against any claims for commissions by Buyer's Broker. Each party represents to the other that neither has made any agreement or taken any action that may cause any broker, agent, or person other than Buyer's Broker to become entitled to a consulting, brokerage, or other fee or commission as a result of the transactions contemplated by this Agreement; and Seller (subject to applicable Laws) and Buyer each hereby indemnifies and shall defend the other from any and all claims, actual or threatened, for compensation by any third person (other than Buyer's Broker listed above) by reason of such party's breach of its representation or warranty contained in this Section 17.

18. Miscellaneous.

18.1. Assignability. Buyer may freely assign or transfer any portion or all of its rights or obligations under this Agreement to any entity controlled by or under common control with Buyer, or through a nominee, to which Buyer may assign its rights hereunder, pursuant to an acquisition for the benefit of Buyer through a sale/leaseback arrangement; and upon any such assignment such assignee shall be deemed to be Buyer hereunder for all purposes hereof and have all the rights of Buyer hereunder (including the right of further assignment), and Buyer shall be further entitled to assign any portion or all of its rights under this Agreement, without the consent of Seller, to a Qualified Intermediary for purposes of a deferred like/kind exchange pursuant to Section 1031 of the United States Internal Revenue Code ("Exchange Transaction"), as more particularly set forth in Section 20 below, herein title would be taken in the name of Buyer or any such entity controlled by or under common control with Buyer, or nominee of Buyer; *provided* that neither Buyer nor any subsequent assignor shall be relieved from any liability or obligation hereunder. Seller may not assign or transfer all or any portion or all of its rights or obligations under this Agreement without the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

18.2. Attorneys' Fees. In any dispute or action between the parties arising out of this Agreement, or in connection with the Property, the Prevailing Party shall be entitled to have and recover from the other party all losses, damages, costs, and expenses (including court costs and reasonable attorneys' fees) related thereto, whether by final judgment or by out of court settlement. As used herein, the "Prevailing Party" shall be the party entitled to an adjudication of the dispute in its favor, irrespective as to whether there is a monetary or equitable award.

18.3. Governing Law; Venue. This Agreement shall be governed by the law of the Commonwealth of Virginia, and shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. The sole venue for all actions arising under this Agreement shall be in the Circuit Court of the City of Norfolk, Virginia.

18.4. "Day"; "Business Day"; Computation of Time. All references to "days" in this Agreement shall be construed to mean calendar days unless otherwise expressly provided and all references to "business days" shall be construed to mean days other than a Saturday, Sunday or legal holiday in Norfolk, Virginia. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be

included. The last day of the period so computed will be included, unless it is not a business day, in which event the period runs until the end of the next business day.

18.5. TIME OF THE ESSENCE. ALL TIMES, WHEREVER SPECIFIED HEREIN FOR THE PERFORMANCE BY SELLER OR BUYER OF THEIR RESPECTIVE OBLIGATIONS HEREUNDER, ARE OF THE ESSENCE OF THIS AGREEMENT.

18.6. Construction. Whenever in this Agreement: (i) the words "herein," "hereunder," "hereinabove," "hereinafter," or similar words are used, the same shall be deemed to refer to this entire Agreement (including all Exhibits attached hereto, which are hereby incorporated by reference herein), unless expressly stated to the contrary, and (ii) the terms "include," "including" and words of similar import shall be construed as if followed by the phrase "without limitation." This Agreement shall not be interpreted or construed more strictly against one party or the other merely by virtue of the fact that it was drafted by counsel to Seller or Buyer; it being hereby acknowledged and agreed that Seller and Buyer have both contributed materially and substantially to the negotiation and drafting of this Agreement.

18.7. Headings. The headings preceding the text of the Sections, paragraphs and subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

18.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which counterparts shall constitute one Agreement. Execution copies of this Agreement may be delivered by email, and the parties hereto agree to accept and be bound by scanned signatures transmitted via email hereto, which signatures shall be considered as original signatures with the transmitted Agreement having the same binding effect as an original signature on an original Agreement. At the request of either party, any scanned document transmitted via email is to be re-executed in original form by the party who executed the original scanned document. Neither party may raise the use of a scanned document or the fact that any signature was transmitted through the use of email as a defense to the enforcement of this Agreement.

18.9. Background and Exhibits. The "Background" set forth at the outset of this Agreement, together with all Exhibits that are referred to herein and that are attached hereto or bound separately and initialed by the parties, are expressly made and constitute a part of this Agreement.

18.10. Entire Agreement; Amendments. This Agreement and the Exhibits hereto set forth all of the promises, covenants, agreements, conditions, and undertaking between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent, or discharge is sought.

19. **Confidentiality**. NEITHER SELLER NOR BUYER SHALL DISCLOSE EITHER THE EXISTENCE OF, OR ANY OF THE SPECIFIC TERMS OR PROVISIONS OF, THIS

AGREEMENT TO ANY PERSON OR ENTITY NOT A PARTY TO THIS AGREEMENT (OTHER THAN TO BUYER'S BROKER, AND BUYER'S AND SELLER'S RESPECTIVE COUNSEL AND PROFESSIONALS), NOR SHALL EITHER SELLER OR BUYER ISSUE ANY PRESS RELEASES OR MAKE ANY PUBLIC STATEMENTS RELATING TO THIS AGREEMENT OR BUYER'S INTENDED USE OF THE PROPERTY, WHETHER OBTAINED THROUGH DOCUMENTS, ORAL OR WRITTEN COMMUNICATIONS, OR OTHERWISE (COLLECTIVELY THE "INFORMATION"); PROVIDED, HOWEVER, THAT (A) FOLLOWING ADVANCE WRITTEN NOTICE TO SELLER, BUYER MAY MAKE A PUBLIC ANNOUNCEMENT, AT BUYER'S DISCRETION, OF BUYER'S INTENT TO PURCHASE THE PROPERTY, SO LONG AS SUCH ANNOUNCEMENT DISCLOSES ONLY THE EXISTENCE OF THIS AGREEMENT AND DOES NOT DISCLOSE ANY OF THE TERMS OF THIS AGREEMENT, AND (B) EACH OF SELLER AND BUYER (i) MAY MAKE NECESSARY DISCLOSURES TO ITS EMPLOYEES, AND PROFESSIONAL AND BUSINESS ADVISORS SO LONG AS SUCH PARTY INFORMS EACH RECIPIENT OF THE REQUIREMENT TO KEEP THE INFORMATION CONFIDENTIAL, (ii) MAY MAKE NECESSARY DISCLOSURES TO GOVERNMENTAL AUTHORITIES AS REQUIRED BY LAW (INCLUDING SEC REGULATIONS), OR (iii) MAY MAKE NECESSARY DISCLOSURES TO COMPLY WITH ANY COURT ORDER OR ADMINISTRATIVE AGENCY DEMAND AFTER GIVING THE OTHER PARTY REASONABLE ADVANCE NOTICE OF SUCH DEMAND TO THE EXTENT ALLOWABLE PRIOR TO DISCLOSURE, (iv) MAY MAKE NECESSARY DISCLOSURES TO ENFORCE THIS AGREEMENT, AS AND TO THE EXTENT APPLICABLE, AND (v) MAY DISCLOSE THE EXISTENCE OF (BUT NOT ANY OF THE SPECIFIC TERMS OR PROVISIONS OF) THIS AGREEMENT LETTER TO GOVERNMENTAL AUTHORITIES AS DEEMED ADVANTAGEOUS IN ORDER TO ADVANCE THE PURPOSE OF OBTAINING THE EXTERNAL APPROVALS, AND (B) NOTWITHSTANDING THE FOREGOING, BUYER MAY DISCLOSE THE EXISTENCE AND SPECIFIC TERMS OF THIS AGREEMENT TO GOVERNMENTAL AUTHORITIES AS DEEMED ADVANTAGEOUS IN ORDER TO ADVANCE THE PURPOSE OF OBTAINING THE EXTERNAL APPROVALS.

20. Buyer's Exchange Transaction. Buyer may designate the Property as "exchange property" or otherwise identify the Property as property that is part of an Exchange Transaction, but Seller makes no warranty or representation that the transaction contemplated by Buyer as an Exchange Transaction will qualify under Section 1031. In connection therewith, Seller hereby agrees, at No Out-Of-Pocket Expense to Seller, to execute and comply with such documents as requested by Buyer, including an amendment to, or assignment of, this Agreement pertaining to the Exchange Transaction and provide written acknowledgement of receipt of such written notices as Buyer furnishes to Seller concerning the Exchange Transaction and shall otherwise cooperate with Buyer in connection with the Property being part of an Exchange Transaction provided that Seller's obligations hereunder shall not be increased nor its rights adversely affected thereby in any such instance. The provisions of this Section 20 shall survive the Closing and the delivery of the Deed.

21. The IKEA Group Anti-Corruption Policy. Seller acknowledges that it has been informed that the IKEA Group Anti-Corruption Policy attached hereto as **Exhibit F** and hereby made a part hereof as if full set forth herein (as amended, modified, or supplemented by the Buyer from time to time, "IKEA Group Anti-Corruption Policy") applies to all agreements entered into

by Buyer. Accordingly, Seller shall, and Seller shall cause all of its employees, agents, consultants, professionals, and engineers to, fully comply with the conditions and requirements of the IKEA Group Anti-Corruption Policy. Seller shall give Buyer notice, in writing, of any attempt or request from any employee or co-worker of Buyer or any person or entity owning, owned by, or under common control with, Buyer to obtain advantages that contravene the IKEA Group Anti-Corruption Policy. Furthermore, in the event Buyer amends, modifies, or supplements the IKEA Group Anti-Corruption Policy as set forth in **Exhibit F**, Seller agrees that it shall (and shall cause all of its employees, agents, consultants, professionals, and engineers to) fully comply with the conditions and requirements of such amendment, modification, and supplement as and to the extent a copy thereof is furnished to Seller.

22. **Waiver of Jury Trial.** Seller and Buyer hereby waive trial by jury in any action, proceeding or counterclaim (whether arising in tort or contract) brought by either against the other on any matter arising out of or in any way connected with this Agreement. The provisions of this Section shall survive the Closing.

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IN WITNESS WHEREOF, the parties have executed and delivered this Agreement of Sale between the City of Norfolk, as Seller, and IKEA Property, Inc., as Buyer, as of the date first above written.

SELLER:

CITY OF NORFOLK

By: _____

Name: Marcus D. Jones

Its: City Manager

ATTEST:

City Clerk

APPROVED AS TO CONTENTS:

Director, Department of Development
City of Norfolk

APPROVED AS TO FORM AND
CORRECTNESS:

Assistant City Attorney, City of Norfolk

[Buyer's signature appears on next page]

BUYER:

IKEA Property, Inc.,
a Delaware corporation, by its authorized
signatories

By: _____

Name:

Title:

By: _____

Name:

Title:

By: _____

Name:

Title:

Joinder by Title Insurer

_____, the "Title Insurer" named and identified as such in the foregoing Agreement, intending to be legally bound hereby, has joined in the execution thereof solely for the purposes of (a) acknowledging receipt of the _____ Deposit referred to therein; and (b) agreeing to perform its obligations as escrow agent as provided for herein.

Title Insurer

Title Company Name

By: _____

Name: _____

Title: _____

Dated: _____, 2016

12. 345



Exhibit B
Disclosed Information

5. Preliminary Jurisdictional Determination Letter Dated 8/4/2015
6. NEDA Lake Wright East, Norfolk Wetlands Delineation Letter Dated 2/5/2007
7. Lake Wright East Traffic Impact Analysis Dated 1/11/2007
8. Report of Preliminary Subsurface Exploration and Geotechnical Engineering Evaluation
Dated 10/24/2006

Exhibit C Traffic Development Plan



Exhibit D



Exhibit A
Parcel Plan And Legal Description Of Sale Parcel

Grant Agreement

Exhibit A
Parcel Plan And Legal Description Of Sale Parcel

GRANT AGREEMENT

THIS GRANT AGREEMENT is made as of the ____ day of _____, 20__, between the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NORFOLK a duly organized and existing political subdivision of the Commonwealth of Virginia (the "Authority"), and IKEA PROPERTY, INC., a Delaware corporation ("Grantee").

WITNESSETH:

WHEREAS, the City of Norfolk, Virginia (the "City") and Grantee have entered that certain Agreement of Sale dated _____, 2016, for certain real property known as "Lake Wright East" containing 18.78 acres, more or less, and located at 6000 Northampton Boulevard in the City (the "Property"),

WHEREAS, in the Agreement of Sale the City agreed to provide incentives to the Grantee, through the Authority, upon the term and conditions set forth herein;

WHEREAS, the Agreement of Sale provides for the purchase and development by Grantee for the "Intended Improvements," as defined below; and

WHEREAS, development of the Property for Grantee's Intended Improvements and the ongoing use of the Property by Grantee for the Intended Improvements has been found by both the Directors of the Authority and the City Council of the City (the "City Council") to constitute a significant economic development opportunity for the City, a positive factor in achieving the economic development objectives of the City, and worthy of inducement, as set forth in the resolutions adopted by the Authority and actions taken by the City Council approving the terms herein.

NOW, THEREFORE, WITNESSETH:

1. Definitions.

The following terms shall have the meanings set forth unless the context clearly requires otherwise:

1.1. "Intended Improvements" means and includes an approximately 350,000 square foot blue and yellow IKEA retail furniture and furnishings store (including any other uses found from time to time in any other IKEA retail store), with an exclusive parking field of at least 1,200 spaces, together with all of Buyer's required colors and trade dress and building and site signage and flags, including a navigational sign tower at least 120 feet in height, all related on-site and off-site improvements, and any and all development and contract rights and all other appurtenances thereto necessary to develop the store and other improvements contemplated, to be constructed, equipped, occupied and operated by Grantee on the Property on a continuous basis.

1.2. "Calendar Year" means the calendar year beginning January 1 and ending December 31.

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1.3. "Maximum Grant Amount" means the maximum cumulative amount to be paid to Grantee over the term of the grant which shall be Five Million Dollars (\$5,000,000.00).

1.4. "Grant" means the annual sums to be transferred to the Grantee pursuant to the terms of this Agreement as an inducement for the Grantee to purchase the Property and to construct, equip, occupy and operate its business operations for the Intended Improvements at the Property, subject to the Maximum Grant Amount.

2. The Grant.

2.1. *Amount of the Grant.* Subject to the conditions and limits set forth in Sections 3.1 and 3.2 below, subject to the Maximum Grant Amount, and subject to annual appropriation and transfer of funds to the Authority by the City, the Authority will pay to Grantee a sum of money each year during the Grant Term (hereinafter defined), which annual grant payments shall be calculated using the following performance-based formula:

One-half percent (0.5%) of all gross receipts from the Grantee's business operations for the Intended Improvements at the Property during the applicable Calendar Year.

2.2. *Term of the Grant.* The term of the Grant (the "Grant Term") shall commence upon completion of construction of the Improvements (the "Commencement Date"), as evidenced by the issuance of a Certificate of Occupancy, and the opening of the Grantee's business operations at the Property for the Intended Improvements. The Grant Term shall expire upon the first to occur of (A) when the Maximum Grant Amount has been paid to Grantee or (B) upon payment by the Authority of the fifteenth (15th) annual Grant payment to the Grantee. The Grant payments shall commence on the first August 1 following the end of the first full Calendar Year after the Commencement Date and, subject to the terms and conditions set forth herein, shall be paid on each August 1 thereafter during the Grant Term. In the event of an abandonment of Grantee's business operations at the Property for the Intended Improvements for a period of more than six (6) continuous months for reasons other than a casualty or other material damage, Act of God, or other force majeure event outside of the reasonable control of Grantee (in any such case, a "Force Majeure Event"), the Grant Term shall terminate immediately and no further Grant payments shall be made by the Authority.

3. Conditions of the Grant.

The obligation of the Authority to disburse the Grant is subject to the satisfaction of the conditions set forth below.

3.1. *Conditions to Initial Disbursement.* The initial disbursement of the Grant by the Authority shall occur by no later than the first August 1 following the end of the first full Calendar Year after the Commencement Date provided that the following conditions have been satisfied:

A. The Commencement Date shall have occurred.

B. The representations and warranties set forth below shall be true and correct in all material respects as of the date of this Agreement and shall continue to be true and

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correct in all material respects at the time of the proposed disbursement of the initial Grant payment.

C. The City shall have calculated and advised the Authority in writing of the amount of the initial disbursement, the City Council of the City shall have appropriated funds for the then current Grant payment and shall have transferred such funds to the Authority. The City's calculation of the amount of the initial Grant payment shall be deemed accurate and correct absent manifest error.

3.2. *Conditions to Each Annual Grant Payment.* Each subsequent disbursement of the Grant shall be subject to the satisfaction of the following conditions:

A. The conditions to the initial annual Grant payment shall have been satisfied.

B. Subject to the occurrence of a Force Majeure Event, Grantee shall have continuously operated its business for the Intended Improvements at the Property. For purposes of this Agreement, "continuous business operations" and to "continuously operate" shall mean to continue to operate Grantee's business for the Intended Improvements every weekday during normal business hours, excluding holidays.

C. The representations and warranties set forth below shall be true and correct in all material respects as of the date of this Agreement, and shall continue to be true and correct in all material respects at the time of the proposed disbursement of each year's Grant payment.

D. Based upon such documentation as the City deems appropriate, the City shall have calculated and advised the Authority in writing of the amount of the current Grant payment, the City Council of the City shall have appropriated funds for the Grant, and the City shall have transferred such funds to the Authority. The City's calculation of the amount of each annual Grant payment shall be deemed accurate and correct absent manifest error.

4. Representations and Warranties.

Grantee represents and warrants to the Authority that:

4.1. *Due Organization, Authority and Qualification.* Grantee is a duly organized and validly existing limited liability company under the laws of the State of North Carolina, is registered to do business in Virginia, is in good standing in the state of its organization, and has the full power and authority to own its properties and other assets and to transact the Intended Improvements at the Property.

4.2. *Taxes.* Grantee has filed and shall file all tax returns which are required to be filed in the Commonwealth of Virginia and elsewhere and has paid all taxes (including interest and penalties) which have become due pursuant to such returns or pursuant to any assessment or notice of tax claim or deficiency received by it. All tax liabilities within the Commonwealth of Virginia and elsewhere were adequately provided for when due and are now shown current on the books of Grantee. No material tax liability has been asserted by the Internal Revenue Service, the

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Commonwealth of Virginia, the City, or any other jurisdiction for taxes (or interest or penalties thereon) in excess of those already paid.

4.3. *Compliance with Laws.* To Grantee's best knowledge, Grantee and all of its assets and properties located in the Commonwealth of Virginia, including without limitation the Property, are and shall be in compliance in all material respects with all applicable laws, rules and regulations of each Federal, state, municipal or other governmental department, agency or authority, including without limitation the Americans with Disabilities Act of 1990, the regulations promulgated thereunder, and all applicable environmental, land use and zoning laws and regulations, to the extent applicable.

4.4. *Information Necessary to Calculate Grant Payments.* Reports of gross receipts and other relevant documents required by law to be filed with the Tax Commissioner of the Commonwealth of Virginia or the Commissioner of Revenue of the City for the applicable tax year must be timely filed and copies delivered to the Authority (collectively, the "Required Information"), which shall then provide copies of such Required Information to the City. Grantee's failure to timely file Required Information with the Authority shall not jeopardize the payment of any Grant payment unless and until the Authority notifies Grantee of Grantee's failure to provide Required Information and Grantee does not cure such failure within thirty (30) days of Grantee's receipt of such notice.

5. General Matters.

5.1. *Authority Obligations Subject to Appropriation; Exculpation.*

A. All obligations of the Authority hereunder for the disbursement of the Grant and any other payment of money are subject to and expressly conditioned upon funds being appropriated, calculated and approved for such purpose by the City Council, the amount of Grantee's grant payment being calculated and approved by the City, and the funds being delivered to the Authority, and shall not at any time constitute a legal obligation of the Authority for the disbursement of the Grant or the payment of money except to the extent so appropriated and delivered.

B. Neither the directors of the Authority nor any person executing this Agreement on behalf of either party shall be liable personally thereon by reason of the execution and delivery hereof. This Agreement is not, and shall not be deemed to constitute, a general obligation of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the City, and neither the Commonwealth of Virginia nor any such political subdivision thereof shall be liable thereon, nor in any event shall this Agreement be payable out of funds or properties other than as set forth herein. This Agreement shall not constitute an indebtedness within the meaning of any Commonwealth of Virginia municipal debt limitation or restriction.

C. No covenant, agreement or obligation contained in this Agreement shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee or agent of the Authority or Grantee in his or her individual capacity, and no such director, officer, employee or agent shall be subject to any liability under this Agreement or with respect to any other action taken by him or her.

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5.2. *Assignment.* Grantee may not assign its rights under this Agreement without the prior written consent of the Authority and the City.

5.3. *Waiver.* The failure of the Authority or Grantee to insist upon strict performance of any of the terms or provisions of this Agreement or to exercise any option, right or remedy contained in this Agreement, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy. No waiver by the Authority or Grantee of any term or provision of this Agreement shall be deemed to have been made unless expressed in writing and duly signed by the Authority or Grantee, as applicable.

5.4. *Severability.* If any clause or provision of this Agreement is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, then the remaining parts of this Agreement shall not be affected, and said remaining parts of this Agreement shall be enforceable, to the extent they are consistent with the spirit and intent of this Agreement in its original form.

5.5. *Licensee and Permits.* It shall be the ultimate responsibility of Grantee at its expense to secure all licenses and permits required to be obtained by it with respect to construction, completion, equipping and occupancy of the Improvements.

5.6. *Notices Applicable Law.* This Agreement shall be construed under and shall be governed by the laws of the Commonwealth of Virginia. In the event of a conflict arising under this Agreement, venue shall be in the Circuit Court of the City of Norfolk.

5.7. *Interpretation.* For the purpose of construing this Agreement, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, words in one gender shall be deemed to include words in other genders, and the word "person" shall be deemed to include a corporation, company or partnership. Headings or Articles and Sections are inserted only for convenience and are not, and shall not be deemed a limitation on the scope of the particular Articles or Sections to which they refer.

5.8. *Notices.* All notices or other communications required or desired to be given with respect to this Agreement shall be in writing and shall be delivered by hand or by courier service (including reputable overnight courier service such as UPS), or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail, registered or certified, shall be deemed to be given by the sender when mailed; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the party intended to receive such notice or when such party refuses to accept delivery of such notice. Upon a change of address by either party, such party shall give written notice of such change to the other party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the third day after such notice is sent.

To the Authority: Economic Development Authority of
the City of Norfolk

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500 E. Main Street, Suite 1500
Norfolk, VA 23510

With a copy to: Kaufman & Canoles, P.C.
150 W. Main Street, Suite 2100
Norfolk, VA 23510
Attn: George L. Consolvo

And with a copy to: City Attorney
City of Norfolk
810 Union Street, Suite 900
Norfolk, VA 23510

To Grantee: IKEA Property, Inc.
420 Alan Wood Road
Conshohocken, PA 19428
Attention: President
Phone: 610-834-0180
Email address: douglas.greenholz2@ikea.com

With a copy to: Larsson & Scheuritzel P.C.
Centre Square West
1500 Market Street, Suite 3510
Philadelphia, PA 19102
Attention: David J. Larsson, Esq.

5.9. *Non-Discriminatory Policies.*

A. Grantee will comply with all applicable laws regarding the discrimination of employees or applicants for employment because of the race, religion, color, sex or national origin of the employee or applicant for employment. Grantee agrees to post, to the extent required by any applicable laws, in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. Grantee, in all solicitations or advertisements for employees placed by or on behalf of Grantee, will state, to the extent required by any applicable laws, that Grantee is an equal opportunity employer.

C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

5.10. *Third Party Beneficiaries.* The City shall be a third party beneficiary of this Agreement. Except for the City, this Agreement is intended solely for the benefit of the parties hereto. Except for the City, this Agreement is not intended and shall not be construed to benefit or create any rights for any third party. It is the express intent of the parties hereto that there be no third party beneficiaries hereof, except for the City.

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5.11. *Entire Agreement.* This Agreement constitutes the entire agreement between the parties with respect to the Grant, supersedes all prior understandings and writings and may be amended or modified only by a writing signed by the Authority and Grantee.

WITNESS the following signatures, thereunto duly authorized:

ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF NORFOLK

By: _____
Name: _____
Title: _____
Date: _____

IKEA PROPERTY, INC., a Delaware
corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM AND
CORRECTNESS:

Counsel to the Economic Development
Authority of the City of Norfolk

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Exhibit A
Parcel Plan And Legal Description Of Sale Parcel

Exhibit E Owner's Affidavit



File No. 16-001200
6100 Northampton Blvd. Norfolk, VA

OWNER'S AFFIDAVIT AND AGREEMENT

State of _____

County of _____

_____, ("Affiant"), being duly sworn according to law, deposes and says as follows:

1. That Affiant is the _____ of _____, a _____ [limited partnership, limited liability company, corporation] ("Company"), and that Affiant has personal knowledge of the facts sworn to in this affidavit and is fully authorized and qualified to make this affidavit.
2. That Company is the owner of the premises described in the attached Exhibit A (the "Property").
3. That there has been no work, services or labor performed or material furnished in connection with repairs or improvements on the property within one hundred twenty-three (123) days prior to the date of this Affidavit; or, that in the event work has been performed, services rendered, or materials furnished in connection with construction, repair, or improvement on the property during such 123-day period, that all such work performed, services rendered, or materials furnished have been completed and are acceptable to Company, and Company has paid in full all contractors, laborers, and materialmen for such work performed, services rendered, or material furnished in connection with construction, repairs, or improvements on the property during such 180-day period, except as shown on exhibit attached hereto.
NO EXHIBIT _____ SEE EXHIBIT ATTACHED _____
4. That there are no unrecorded tenancies, leases or other occupancies on the Property except as listed below, and that if any such unrecorded leases, tenancies or other occupancies are listed below, they contain no options to purchase, rights of first refusal or other similar rights relating to the purchase of the Property.
NO EXHIBIT _____ SEE EXHIBIT ATTACHED _____
5. That no other person has possession or any right to possession of the Property or any interest therein, including oil, gas or other minerals.
6. That there are no financing statements, chattel mortgages, conditional bills of sale or retention of title agreements affecting any fixtures located on the Property.
7. That there are no unrecorded easements or claims of easement; no disputes, discrepancies or encroachments affecting a setback or boundary line; and no contracts, options or rights to purchase other than in the transaction for which this affidavit is given.
8. That there are no unrecorded judgments, liens, mortgages or other claims against the Property.
9. That no proceeding in bankruptcy has ever been instituted by or against Company (and if a partnership, against the general partner(s) thereof), nor has Company ever made an assignment for the benefit of creditors.
10. That there is no action or proceeding relating to the Property in any state or federal court in the United States nor any state or federal judgment or any federal lien of any kind or nature whatever which now constitutes a lien or charge upon the Property.
11. That there are no delinquent state, county, city, school district, water district, or other governmental agency taxes.
 - a. due or owing against the Property; and that
 - b. no tax suit has been filed by any state, county, city, school district, water district, or other governmental agency for taxes levied against the Property.



12. That there has been no notice nor does Affiant have any knowledge of any
 - a. recent or future planned improvements (such as street paving, sidewalks;
 - b. street lights, etc.) that would result in a special assessment against the property; or
 - c. any proceeding which could result in an increase tax or assessment liability against the Property.
13. That all management fees, if any, are fully paid, except as shown on exhibit attached hereto.
NO EXHIBIT _____ SEE EXHIBIT ATTACHED _____
14. That Company has not purchased any items which have not been paid for in full and for which the provider of such items would have any right, interest or claim that may exist, arise or be asserted against the Title under or pursuant to the Perishable Agricultural Commodities Act of 1930, as amended, 7 USC 499a et seq., the Packers and Stockyard Act of 1921, as amended, 7 USC 181 et seq., or any similar state laws.
15. That no real estate broker has been hired by Company in connection with the sale transaction, or if any real estate broker has been hired, any and all fees and commissions due to the real estate broker(s) will be paid in full through the closing.

Company, recognizing that funding may occur prior to the Deed or Deed of Trust being officially filed for record in the appropriate Clerk's Office, agrees that in consideration of Commonwealth Land Title Insurance Company (hereinafter "Commonwealth") issuing a policy without exception to any matters which may arise between the effective date of the commitment for title insurance and the date the documents creating the interest being insured are filed for record, which matters may constitute an encumbrance on or affect the title (the "GAP"), to promptly defend, remove, bond or otherwise dispose of any encumbrance, lien or objectionable matter to title which may arise or be filed, as the case may be, against said property during the GAP. The Company further agrees to hold harmless and indemnify Commonwealth against all losses, expenses, costs and fees, including, but not limited to, attorney fees, which may arise out of Company's failure to so remove, bond or otherwise dispose of any said liens, encumbrances or objectionable matters.

This Affidavit is given to induce Commonwealth to issue its policy or policies of title insurance with full knowledge that the Company will rely upon the accuracy of same. The Company does hereby indemnify and hold Commonwealth harmless of and from any and all loss, cost, damage, and expense of every kind, including attorneys' fees, which Commonwealth shall suffer or incur or become liable for under its said policy or policies directly or indirectly, due to its reliance on the accuracy of the foregoing statements or in connection with its enforcement of its rights under this Agreement.

EXECUTED AS OF THIS _____ DAY OF _____, 20_____.

AFFIANT:

Name:
Title:

Sworn, subscribed to and acknowledged before me this _____ day of _____, 20_____.

Notary Public

My Commission expires:

Exhibit A
Legal Description

An irregular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows:

BEGINNING at a point located at the intersection of the northern right-of-way line of Northampton Boulevard (U.S. Route 13) and the western right-of-way of the Highway 64 Entrance Ramp (G-2) opposite Station 388+11.94, as shown on the State of Virginia Highway Project #0064-122-070 R/W 203 plan (Route 64), Sheet No. 502-6; thence running along the northern right-of-way line of Northampton Boulevard (U.S. Route 13) from the point of beginning in a southwesterly direction along a curve turning to the right having a radius of 1788.42 feet, chord bearing of S82°25'44"W, and a chord distance of 112.00 feet to a point; thence, along a bearing of N01°03'03"W for a distance of 13.37 feet to a point; thence, along a bearing of S89°15'46"W for a distance of 117.07 feet to a point; thence, along a bearing of N55°01'55"W for a distance of 52.30 feet to a point; thence, along a bearing of S89°14'34"W for a distance of 101.00 feet to a point; thence, along a bearing of S54°24'43"W for a distance of 65.77 feet to a point; thence, along a bearing of S00°44'14"E for a distance of 13.39 feet to a point; said point being located on the northern right-of-way line of Northampton Boulevard (U.S. Route 13) thence, along a bearing of S89°16'49"W for a distance of 54.28 feet to a point; said point being 25.00 feet, more or less, from the edge of water of Lake Wright established by the spillway elevation; thence, running along a bearing of N17°07'04"W for a distance of 26.50 feet to a point; said point being 25.00 feet, more or less, from the edge of water; thence, continuing following forty-one courses and distances being 25.00 feet, more or less, from the edge of water of Lake Wright established by the spillway elevation; thence, being along a bearing of N65°13'14"W for a distance of 80.14 feet to a point; thence, along a bearing of N56°27'51"W for a distance of 31.90 feet to a point; thence, along a bearing of N45°51'48"W for a distance of 26.26 feet to a point; thence, along a bearing of N34°37'49"W for a distance of 21.13 feet to a point; thence, along a bearing of N12°13'55"W for a distance of 11.16 feet to a point; thence, along a bearing of N17°05'45"E for a distance of 19.39 feet to a point; thence, along a bearing of N14°52'07"W for a distance of 30.46 feet to a point; thence, along a bearing of N40°29'49"W for a distance of 33.66 feet to a point; thence, along a bearing of N56°39'38"W for a distance of 18.67 feet to a point; thence, along a bearing of N75°23'14"W for a distance of 27.69 feet to a point; thence, along a bearing of N64°05'54"W for a distance of 52.42 feet to a point; thence, along a bearing of N80°31'41"W for a distance of 34.33 feet to a point; thence, along a bearing of N71°49'15"W for a distance of 41.53 feet to a point; thence, along a bearing of N82°29'40"W for a distance of 62.10 feet to a point; thence, along a bearing of S78°34'23"W for a distance of 33.32 feet to a point; thence, along a bearing of S68°51'01"W for a distance of 63.15 feet to a point; thence, along a bearing of S59°59'41"W for a distance of 17.39 feet to a point; thence, along a bearing of S71°37'39"W for a distance of 14.39 feet to a point; thence, along a bearing of N24°05'47"W for a distance of 17.04 feet to a point; thence, along a bearing of N09°03'46"W for a distance of 36.26 feet to a point; thence, along a bearing of N14°59'03"W for a distance of 51.14 feet to a point; thence, along a bearing of N07°16'46"W for a distance of 47.39 feet to a point; thence, along a bearing of N18°29'36"W for a distance of 20.16 feet to a point; thence, along a bearing of N72°20'07"E for a distance of 48.64 feet to a point; thence, along a bearing of N32°43'21"E for a distance of 27.89 feet to a point; thence, along a bearing of N02°23'58"E for a distance of 51.28 feet to a point; thence, along a bearing of N21°27'40"W for a distance of 21.07 feet to a point; thence, along a bearing of N15°40'28"E for a distance of 62.06 feet to a point; thence, along a bearing of N53°09'44"E for a distance of 27.52 feet to a point; thence, along a bearing of N69°38'59"E for a distance of 43.06 feet to a point; thence, along a bearing of N57°07'54"E for a distance of 53.39 feet to a point; thence, along a bearing of N39°14'47"E for a distance of 81.39 feet to a point; thence, along a bearing of N13°27'01"E for a distance of 34.35 feet to a point; thence, along a bearing of N35°21'45"E for a distance of 15.34 feet to a point; thence, along a bearing of N47°39'47"E for a distance of 35.35 feet to a point; thence, along a bearing of N25°51'08"E for a distance of 37.01 feet to a point; thence, along a bearing of N19°07'59"E for a distance of 16.52 feet to a point; thence, along a bearing of N39°59'49"E for a distance of 20.33 feet to a point; thence, along a bearing of N61°32'05"E for a distance of 20.74 feet to a point; thence, along a bearing of N86°30'28"E for a distance of 35.14 feet to a point; thence, along a bearing of

N38°14'16"E for a distance of 46.84 feet to a point; thence, along a bearing of N15°57'32"E for a distance of 42.86 feet to a point being 25.00 feet, more or less, from the edge of water of Lake Wright established by the spillway elevation; thence, along a bearing of N46°45'45"E for a distance of 324.54 feet to a point; said point being located on the southwestern right-of-way line of Highway 64; thence, continuing along the variable width right-of-way of Highway 64 along a bearing of S51°16'23"E for a distance of 76.60 feet to a point; thence, along a bearing of S46°56'31"E for a distance of 291.61 feet to a point; thence, along a bearing of S41°34'37"E for a distance of 387.74 feet to a point; thence, along a bearing of S41°00'22"E for a distance of 158.44 feet to a point; said point being located at the intersection of the southwestern right-of-way line of Highway 64 and the western right-of-way line of the Highway 64 Ramp; thence, turning and running along the western right-of-way line of the Highway Ramp curving to the left, having a radius of 586.09 feet, chord bearing of S42°10'35"W, an arc length of 230.78 feet to a point; thence, along a bearing of S30°37'13"W for a distance of 111.58 feet to a point; thence, turning along a curve to the left having a radius of 596.09 feet, chord bearing of S11°22'19"W, and an arc length of 181.76 feet to the Point of Beginning.

The above-described parcel contains 18.871 acres of land, more or less.

Exhibit F

IKEA'S ANTI-CORRUPTION POLICY



Reg. IKEA Group Policy on Anti Corruption

To all potential suppliers,

We would like to inform you of the IKEA Group Policy on Anti Corruption which is attached to this document and which applies to all contracts entered into by or on behalf of IKEA.

It is an IKEA policy not to allow any form of corruption. We believe in fair and honest business dealings and believe that gifts between business associates or trading partners are unnecessary and may even be detrimental to the development of a cordial and mutually beneficial business relationship.

All our staff are aware of this Policy and they know that any breach may result in disciplinary action. In certain circumstances, we may also consider other appropriate measures under the appropriate legislation.

As we consider the IKEA Group Policy on Anti Corruption as one of our most important business ethics principles, we encourage you and your associates to report to IKEA any attempt by any member of our staff to solicit any advantage from your company.

In addition to the IKEA Group Policy on Anti Corruption, Conflict of Interest must be avoided. A Conflict of Interest occurs when an individual or organization is involved in multiple interests, one of which could possibly corrupt the motivation to act in the interest of the IKEA Group. Any potential Conflict of Interest must be disclosed.

We will further take appropriate action, should it come to our knowledge that any form of advantage is proposed or given to any of our staff, construction partners or statutory bodies from you or any of your associates, or should you withhold necessary information as regards to these matters.

It is specifically understood by both parties that violation of the IKEA Group Policy on Anti Corruption will constitute a material breach of contract which entitles us to enforce our rights under any contract or agreement between our two companies, including, but not limited to, immediate termination of such contract or agreement.

Please confirm that you have read and understood and agree to comply with the content of this letter and the attached Policy by signing below and returning one copy to IKEA at the address below. Please keep one copy for your record.

Place, date

CITY OF NORFOLK

IKEA Company Representative

Marcus D. Jones, City Manager

Contents Approved:

ATTEST:

Director, Dept. of Development

City Clerk

Approved as to Form and Correctness:

Assistant City Attorney



IKEA Group Policy on Anti Corruption

Document reference: IGP 1001

Issue date:

1 October 2012

Revision date:

N/A

Version:

Version 1.0

Related master documents:

IKEA Group Code of Conduct

Issued by:

Management Board of Ingka
Holding B.V.

Content owner:

IKEA Group Chief Risk Officer (CRO)

Applicability:

IKEA Group
(Ingka Holding B.V. and all its controlled
entities)

SUMMARY:

Trust, integrity and honesty are key values of IKEA Group. Corruption is contradictory to the objective of doing good business. It damages the confidence our co-workers, suppliers, customers and other stakeholders have in IKEA.

The IKEA Group has zero tolerance towards corruption in any form.



1. Policy scope and objective

IKEA Group requires that all co-workers and business partners shall comply with relevant laws, regulations and applicable provisions when conducting business. This policy and any corresponding standard may go beyond such laws, regulations and provisions.

The objective of this policy is to define the IKEA Group Standpoint on Corruption.

The IKEA Group Policy on Anti Corruption is applicable to IKEA Group co-workers and IKEA Group business partners.

2. Definitions

Corruption is the misuse of an official duty for unofficial and undue personal advantages or advantages to others. Corruption also includes fraud and bribery as well as benefits, favours and omissions which are considered illegal, unethical or a breach of trust.

Facilitation Payment is a payment to a government official to facilitate a service or activity which the public official is legally obliged to perform without such payment.

3. Policy standpoint

Trust, integrity and honesty are key values of IKEA Group. Corruption is contradictory to the objective of doing good business. It damages the confidence our co-workers, suppliers, customers and other stakeholders have in IKEA. Furthermore, Corruption undermines the rule of law, distorts markets, and denies the many people their rightful share of resources.

The IKEA Group has zero tolerance towards Corruption in any form.

- No one, co-worker or business partner, acting on behalf of IKEA Group or with whom IKEA Group has a relation (including suppliers, vendors and contractors) may directly or indirectly request, offer, pay, accept or receive bribes or conduct other corrupt practices.
- IKEA Group does not allow any form of Facilitation Payments.
- IKEA Group co-workers do not ask for gifts or hospitality and are strongly advised not to accept and/or provide gifts or hospitality from or to any business partner or third party. If and when IKEA Group accepts or provides gifts this is done in a transparent and approved way.

Non compliance with this policy by co-workers shall result in internal disciplinary action and may lead to termination of employment contract and possibly to legal prosecution.

Any act by an IKEA business partner contravening the content or intent of this policy may prompt the termination of the business relation.